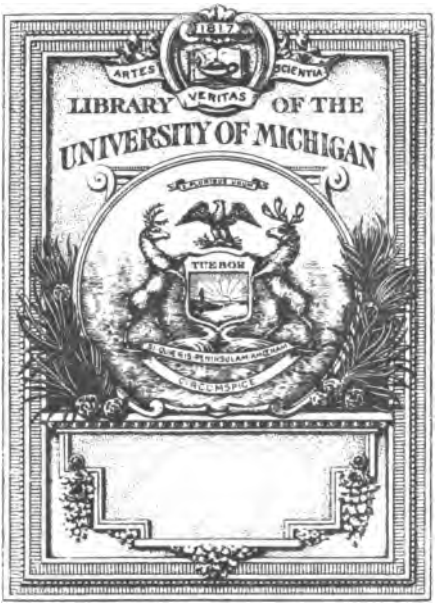

Parish Council of Renfrew.

PRACTICE

OF THE

SCOTTISH POOR LAW

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PRACTICE

OF THE

SCOTTISH POOR LAW

BY

GEORGE A. MACKAY

OF THE LOCAL GOVERNMENT BOARD FOR SCOTLAND

EDINBURGH

WILLIAM GREEN & SONS

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PREFACE

As a result of many conversations with Inspectors of Poor, Parish Councillors, and Parish officials generally, I have come to think that there is a real need for a little manual of Poor Law practice. Since the publication of Mr. Guthrie Smith's classic book some forty years ago, nothing of this kind has been attempted. It is true that Mr. Graham, in a most valuable work on Poor Law, has collected all the Acts and decisions, and linked them together with lucid notes. But Mr. Graham necessarily dwells on the strictly legal side of his subject. To one engaged in active Poor Law work, the practice appeals more strongly than the law, and accordingly the present book is more a manual of practice than any of its predecessors.

In dealing with the law of Settlement and Recourse, I have endeavoured, as far as possible, to express the law in the form of general propositions, and have avoided argument upon debatable points. I have not set for myself any high aim, as I know that many Inspectors of Poor, from long experience, and from native shrewdness, have acquired such a mastery of the law of Settlement that one must not expose the weak places in his armour to the shafts of their criticism. But I am hopeful that Assistant Inspectors, Inspectors of the smaller parishes who may not have all the authorities at command, and especially new Inspectors, may find my notes useful.

I have touched upon the position and duties of the Parish Medical Officer, and have endeavoured to express

the correct view regarding little points of procedure that occasionally perturb the minds of medical men new to parochial work, and unable to appreciate some of the minutiæ of practice that have accrued to the system.

I have tried to state everything in as non-technical a manner as possible, so that the book may be useful to new Parish Councillors, and to those who are just beginning their acquaintance with Poor Law work.

I have been largely indebted for reference to Dunlop's work on the earlier Poor Law, to Mr. Reid's and Mr. Orr Deas' Digest of Cases, and to the Statement of Cases in Mr. Graham's latest manual.

I have not dealt at any length with the question of Finance or Audit, as this is admirably covered by Mr. Maxwell's book on Parish Council Finance.

Mr. Spence, the Secretary of the Lunacy Board, was so good as to revise my chapter on Lunacy, and to place at my disposal a great deal of important information not readily accessible to anyone not officially connected with the Lunacy Board. I think I may safely say that the chapter on Lunacy, which will probably be one of the most useful in the book, owes at least as much to Mr. Spence as to myself.

I am also indebted to Mr. Ewan Macpherson, the legal member of the Local Government Board, for practical suggestion and for illuminative discussion of difficult points of law.

I am, however, specially indebted to Mr. Kyd, the Inspector of Poor of Edinburgh, and to Mr. Maxwell, of the Local Government Board, for revising the proofs and affording me many useful suggestions. Mr. Kyd's notes upon my Statement of the Law of Settlement were exceedingly valuable.

GEORGE A. MACKAY.

EDINBURGH, *August* 1907.

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PRACTICE OF THE SCOTTISH POOR LAW

CHAPTER I

HISTORY OF THE POOR LAW IN SCOTLAND

The Older Poor Law

In Scotland the various early statutes dealing with the poor were inspired less by a desire to relieve poverty than by a desire to get rid of idle rogues and beggars. It is estimated that in the seventeenth century there existed in Scotland some 200,000 people who lived by begging or thieving. In a population not exceeding 1,000,000, this state of affairs certainly called for vigorous action. In Scotland, as in England, the extraordinary number of beggars and vagabonds was due, no doubt, to the disbanding of feudal retainers, to the suppression of the monasteries, and to the numerous petty wars that disorganised industry and agriculture. But in providing for the punishment of strong, idle beggars, it was impossible not to take account of those who, through no fault of their own, were compelled to subsist on charity: that is, those who, from disease, old age, or extreme youth, were unable to support themselves, and who had no relatives that could, or would, undertake the burden. Thus, although

the main function of the early Poor Law Acts was repressive, they held the germ of that kindlier spirit which animates the great Act of 1845.

The first Act that contains any provision for the poor is that of 1424 (c. 21), which provides that none between fourteen and seventy years of age may beg, unless they cannot otherwise gain a living. Those who beg without tokens are to be branded and punished. During the fifteenth century several other Acts were passed for the repression of vagrancy. An Act of 1503 (c. 13) confirmed the former Acts, and required sheriffs, bailies, and provosts to allow none to beg except "crukit folk, blind folk, impotent folk, and waik folk." The Act of 1535 (c. 29) originated the present law of settlement by birth. It ordained that no one should beg except in the parish in which he was born, and then only if he had a token from the head men of the parish. Apparently, however, it was found that voluntary charity, then as now, was not adequate for the relief of the poor; and in 1579[1] there was passed the well-known Act that, after decreeing severe punishments to masterful, idle beggars and vagabonds, instructed the provost and bailies in burghs and the justices in landward parishes to prepare yearly a roll of the aged and impotent poor persons who were born or had had their common resort for seven years in the parish; and to apportion the needful weekly sustentation for them among the inhabitants, who might for this purpose be "taxt and stent" according to their substance,—a roll being compiled yearly for that purpose, and collectors and overseers appointed to collect the tax and deliver to the poor their

[1] Curiously enough, the Act of 1579,—the foundation and basis of our present system—was repealed last year on the recommendation of the Statute Law Revision Committee. This would seem to make a new and consolidating Poor Law Act urgently necessary.

weekly portions. The poor were to be sent to their own parishes, and licences to beg might be granted. This Act contains the essential principles of the Act of 1845, which now regulates the relief of the poor.

Between 1579 and 1845 a number of minor Acts were passed, dealing with poor relief, the punishment of vagabonds and idle persons, and the education of pauper children. The duty of relieving the poor was placed on the heritors and kirk-session in landward parishes, and on the magistrates in town parishes. A proclamation, dated 29th August 1693, ordained that one-half of the sums collected at parish churches and of the dues received by the kirk-session should be paid into the general fund for the support of the poor. Otherwise there was no change in principle or in practice until 1845.

The Poor Law Act of 1845

Until 1845 relief of the poor depended on charity, on church-door collections, and—in a few of the larger parishes—on assessment. In several parishes large bequests or mortifications made the system tolerable; but, generally, the condition of the poor was wretched, and begging was necessary. Charity is usually spasmodic, and the donors of relief were often nearly as poor as the recipients. The Legislature did not devise any means whereby the conditions that create pauperism might be ameliorated or removed; but it made life possible for the decent poor and placed a check on imposture and idleness. The essential defect of any Poor Law is that it cannot interpose to prevent destitution and suffering, though there is obviously more merit in prevention than in cure.

In a wealthy country, with a daily press and representative government, individuals cannot be allowed to die of starvation. Such occurrences on a large scale are

possible only where there is no press and no articulate public opinion. Our present Poor Law is the legislative response to public opinion as it existed sixty years ago. Public opinion is now stronger and the national conscience more acute. It demands not only that there shall be no scandals, but that there shall be no perennial spring of human misery finding visible outlet in the published returns of registered poor.

The Poor Law Act of 1845 did the following things: (1) It established a Board of Supervision whose duty it was to see that every parish provided and put into good working order the machinery required by the Act, and to supervise the administration of relief; (2) it established Parochial Boards on whom was placed the duty of seeing that the poor were given sufficient relief; (3) it required Parochial Boards to appoint an executive officer called the Inspector of Poor; (4) it authorised Parochial Boards to levy an assessment for the relief of the poor; (5) it required them to place insane poor persons in an asylum; (6) it empowered them to erect and maintain poorhouses; (7) it required medical attendance and nutritious diet to be provided for the sick poor; (8) it required Parochial Boards to relieve destitute persons; (9) it gave those who were refused relief a right of appeal to the Sheriff, and those who were dissatisfied with the nature or amount of the relief offered, a right of appeal to the Board of Supervision; (10) it provided that a person who had lived for five years in a parish gained a settlement in that parish; (11) it authorised the removal to their respective countries of English and Irish paupers who had not gained a settlement in Scotland; (12) it empowered the parish that relieved a destitute person not possessing a settlement in the parish to recover its outlays from the parish of settlement; (13) it authorised the prosecution of persons deserting,

or failing to maintain, their wives and families; (14) it authorised the Board of Supervision to institute proceedings in the Court of Session against any Parochial Board refusing or neglecting to perform its statutory duties.

Establishment of the Present System of Administration

Under the guidance of the Board of Supervision, a Parochial Board was established in every parish, and the machinery provided by the Act was set in motion. Poorhouses were built throughout the country. Experience gradually revealed what seemed to be the best methods of administration. The Board of Supervision, with the assistance of their inspecting staff and the abler of the Inspectors of Poor, endeavoured to cope with the difficulties inseparable from the inauguration of a new system. In time a code of rules and instructions greatly exceeding in volume the original Act came into being. Point after point in the law of settlement was decided by the Court of Session and the House of Lords, until this became one of the most highly specialised and intricate branches of the law.

Amendments of the Poor Law

Certain difficulties could not be overcome without recourse to further legislation, and the following amending and supplementary Acts were passed:—

(1) *Poor Law (Scotland) Act*, 1856 (19 & 20 *Vict. cap.* 117)

This Act empowered the Board of Supervision to appoint two General Superintendents of Poor, and it extended to thirty years the period allowed for the repayment of a sum borrowed for the erection of a poorhouse.

(2) *Poor Law (Scotland) (No. 1) Act*, 1861 (24 *Vict. c.* 18)

By the Act of 1845, the Board of Supervision was empowered to combine parishes for Poor Law purposes; but there existed no power to dissolve a combination once formed, although it might be found to be unworkable. The Act of 1861 (No. 1) authorised the Board of Supervision to dissolve a combination. (It should be stated that, in practice, the function of the Board in combining or dividing parishes is obsolete, such procedure now taking place under section 51 of the Local Government (Scotland) Act of 1889 and section 46 of the Local Government (Scotland) Act of 1894, which give enlarged powers to the Secretary for Scotland.)

(3) *Poor Law (Scotland) (No. 2) Act*, 1861 (24 & 25 *Vict. c.* 37)

This Act took away the power of Parochial Boards to assess on means and substance.

(4) *Poor Removal Act*, 1862 (25 & 26 *Vict. c.* 113)

This Act, which applies also to England, regulated the procedure of Parochial Boards in Scotland and of Boards of Guardians in England in removing paupers to the country of their birth. In its application to Scotland, the Act of 1862 has been amended by the Poor Law (Scotland) Act, 1898.

(5) *Poor Law Loans and Relief (Scotland) Act*, 1886 (49 & 50 *Vict. c.* 51)

This Act increased the power of parishes, with a population in excess of 100,000, in borrowing for the erection, extension, or improvement of poorhouses. Under the Act of 1845, a parish that had contracted a debt could not again borrow until all the debt had been paid

off. The Act of 1886 permitted parishes with a population exceeding 100,000 to borrow irrespective of debt, provided that the total debt did not exceed three times the amount of assessment raised in the preceding year.

(6) *The Local Government (Scotland) Act*, 1894 (57 & 58 *Vict. c.* 58)

By this Act the administration of the preceding Acts was transferred from Parochial Boards (which were abolished) to popularly-elected Parish Councils. The Local Government Act did not otherwise affect the law relating to the relief of the poor. Certain powers that Parochial Boards did not possess are conferred on landward Parish Councils and on Landward Committees of parishes partly urban and partly landward. They are authorised to provide and maintain ground for public recreation; to acquire and maintain rights of way; to petition the County Council to provide land for allotments. But the new powers are more specious than real, and the chief—in most cases, the only—work of Parish Councils consists in the administration of the Poor Law.

The Local Government Act abolished the Board of Supervision, substituting therefor the Local Government Board,—a body different in composition but filling exactly the place of its predecessor. The audit of Parish Council accounts was now made compulsory.

(7) *Agricultural Rates (Scotland) Act*, 1896 (59 & 60 *Vict. c.* 37)

This Act required rating authorities, in assessing agricultural land, to deduct five-eighths from the valuation of occupiers; or, in the case of certain parishes, by means of a classification of the rate, to grant an equivalent reduction of assessment.

(8) *The Poor Law (Scotland) Act*, 1898 (61 & 62 *Vict. c.* 21)

This Act, the last of the series, established several very important principles: it reduced the period necessary to gain a residential settlement from five to three years; it authorised Parish Councils to refer to the Local Government Board for arbitration, disputes relating to the settlement of paupers; it gave a *status* of irremovability from Scotland to English and Irish paupers who had lived for five years in Scotland, one of these years having been spent in the parish in which application for relief was made; it conferred on paupers and on Boards of Guardians a right of appeal to the Local Government Board against the removal of a pauper from the parish in which he or she had become chargeable.

The foregoing is a brief statement of the statutory basis of the Poor Law. But it is upon the Act of 1845 that the system rests. The other Acts merely modify the details of administration. During the years that have elapsed since 1845 there has been built an administrative edifice of law and usage that, while it has no direct basis in statute, profoundly affects the practice, and has in many instances the legal effect of statute. In the following chapters an effort is made to impart a knowledge of the system such as is usually acquired only by laborious and painful experience of administrative work.

CHAPTER II

CONSTITUTION AND FUNCTIONS OF PARISH COUNCILS AND OF THE LOCAL GOVERNMENT BOARD

CONSTITUTION OF PARISH COUNCILS

THE number of members in a Parish Council is fixed in burghal parishes by the Town Council, in landward parishes by the County Council, in parishes partly burghal and partly landward by the Town and County Councils jointly. In all cases the Local Government Board are required to approve the number of councillors; and, in the event of a dispute, the decision rests with the Local Government Board. Parish Councils are elected every third year; the election in burghs takes place at the same time as the election of Town Councils, and in counties at the same time as the election of County Councils. If in any parish the full number of councillors is not elected, the Local Government Board have power to order (and invariably do order) a new election. The cost of the election is paid in the first instance by the Town and County Councils, and repaid to them by the Parish Councils. Any dispute as to the charges is decided by the Local Government Board.

Functions of Parish Councils under the Poor Law

(1) Relief, Funds, Etc.

It is the duty of the Parish Council to give relief to every applicant legally entitled to the same. Only those who are destitute and disabled are legally entitled to relief; but even this restricted qualification includes orphan and deserted children, children separated from their parents, widows with young children, women with illegitimate children, deserted wives, wives of men in prison, lunatics, unemployed persons disabled from want of food, and many others. To obtain the funds necessary to provide relief, Parish Councils are authorised to assess the owners and occupiers of property. Each class must pay collectively the same amount, but usually the rate per pound on occupiers is higher than the rate on owners; as, owing to unlet property and exemptions on the ground of inability to pay, the assessable valuation of occupiers is nearly always smaller than that of owners. The rate of assessment is usually fixed in October, after the receipt of the Valuation Roll from the County or Burgh Assessor. The assessment is for the year in which it is levied, so that it is to some extent retrospective. It is never levied for a year in advance. By section 38 of the Poor Law Act, the Parish Council is required to appoint a Collector, who may be the Inspector of Poor. The Collector holds office at the pleasure of the Parish Council. The Government assist Parish Councils financially by means of grants. These grants are a fixed sum, so that as the expenditure under each head increases the proportion of grant per pound of expenditure decreases. The Parish Council, in estimating the amount that they will require to raise by assessment, take into account the sum that they are likely to receive

from these grants, from Mortifications, from relatives of paupers, etc. The Agricultural Rates Grant must be credited exclusively to the occupiers' half of the rates. The other grants are placed against the assessment as a whole.

(2) Offices

Before a Parish Council can perform its statutory duties, it must have a place for meetings and an office for the transaction of business. In most instances the Parish Council inherited from the Parochial Board an office of some sort. Frequently the office was simply the Inspector's house, meetings being held in the Inspector's parlour. For this an allowance was usually made to the Inspector. In a number of parishes this arrangement still exists, it being felt that the small amount of business will not justify the erection of an office. The Local Government Board insist on every office being distinguished by a sign. In the larger parishes the passing of the Local Government Act was the signal for the erection of improved offices. Landward Parish Councils and Landward Committees are authorised by section twenty-eight of the Act to borrow for this purpose. Burghal Parish Councils have no such power, and must meet the cost out of current revenue. Various expedients have been adopted to overcome this difficulty. By choosing the time, the work of erection can be made to lie within two or even three financial years; or, by keeping a balance in hand for one or more years (obtained by assessing for more than is necessary for current work) the period of repayment can be extended over several years. Where a Parish is partly urban and party landward, the Landward Committee can borrow for the erection of an office, and the Parish Council can pay the Landward Committee a rent equal to the instalment of debt and interest that it would fall to the Landward Committee to repay in each year.

(3) Appointment of Officials

Having acquired a suitable office and meeting place, the next concern of the Parish Council is the officials who are to occupy the office. There are three distinct duties which may either be combined in one person or given to different persons, namely, the Inspectorship of Poor, the Collectorship of Rates, and the Clerkship to the Parish Council. In most parishes it is usual for the Inspector of Poor to hold all three posts; but in some instances they have been separated. In the very largest parishes the Collector is usually a separate official. One reason for combining the offices is that otherwise the Parish Council could not afford to pay a salary sufficiently large to obtain the services of a qualified person. Indeed, it may confidently be stated that there is no class of public servant less adequately paid than Inspectors of Poor. Parish Councils do not, as a whole, seem to have realised that the best service is also the cheapest, even though more should be paid for it, and that a bad Inspector will soon lose more to the parish than any saving that may be effected in his salary. The work of an Inspector of Poor is exacting, and demands a large endowment of professional knowledge, tact, kindliness, and the finer human instincts. To pay an insufficient salary is simply to court bad work.

(*A*) *The Inspector of Poor*

The Inspector of Poor is appointed by the Parish Council, but can be removed from office only by the Local Government Board. All other appointments are held at the pleasure of the Parish Council. There is no statutory provision as to the method of appointing an Inspector; this is left in the discretion of the Parish Council. In the larger parishes it is necessary, as a

rule, to appoint a staff of assistant inspectors and clerks, the Inspector of Poor being responsible for the proper performance of their duties.

The Inspector of Poor receives and deals with applications for relief. He can grant or refuse relief on his own authority pending a meeting of the Parish Council, to whom he must submit all applications. He must also deal with every case of lunacy reported to him. He pays the aliment of the registered poor. When he grants relief to a person whose settlement is in another parish, he endeavours to recover his outlays from that parish—a delicate process, entailing a knowledge of the law of settlement and often resulting in litigation. He answers claims from other parishes, and, so far as is consistent with the law, defends his own parish. He is bound by statute to visit every pauper at least once in each half-year; but, if a zealous Inspector, he will visit more frequently. He keeps a series of registers and accounts. He makes out annually a claim against the Medical Relief and Lunacy Grants, and prepares a large number of statistical and other returns. He attends the meetings of the Parish Council or Relief Committee, and must be prepared to give full information in regard to every applicant for relief.

(*B*) *The Clerk of the Parish Council*

The Clerk keeps the minutes and accounts of the Parish Council, and conducts all the correspondence that does not fall exclusively within the province of the Inspector. He prepares annually an abstract of his accounts for the auditor appointed by the Local Government Board, and must be ready to explain or justify any transaction to which the auditor takes exception. A salary is usually attached to the Clerkship, even when the Inspector of Poor occupies this post.

(C) The Collector of Rates

The Collector's duty is to prepare and issue the assessment notices and to collect the assessment imposed by the Parish Council. In large parishes the Collector usually receives a salary; in small parishes he is generally paid a commission on the amount of rates collected.

THE LOCAL GOVERNMENT BOARD

Prior to the Act of 1845, there was no central authority charged with the duty of supervising the administration of relief. In the report of the Poor Law Inquiry Commission of 1844, it was pointed out that there was great need for some supervision of the methods of parochial administration, and in particular for bringing public opinion to bear upon these methods in order that abuses might be corrected. The Commission accordingly proposed that a Board of Supervision should be established, and the Poor Law Act gave effect to their proposal. After existing for forty-nine years, the Board of Supervision was abolished by the Local Government Act of 1894, and their functions were transferred to the Local Government Board.

Constitution of Board

The Board consists of—

(*a*) Three *ex-officio* members, namely:

The Secretary for Scotland, who is President;
The Under Secretary for Scotland;
The Solicitor-General.

(*b*) Three salaried members, who are appointed by the Crown, namely:

A Vice-President, with a salary of £1200, rising after five years' service to £1500.

A Legal member (who must be an advocate of not less than seven years' standing), with a salary of £1000.

A Medical member (who must be a registered practitioner and hold a diploma in sanitary science or public health), with a salary of £1000.

The three salaried members give their whole time to their official duties, and attend daily at the chambers of the Board (125 George Street, Edinburgh).

The Staff of the Board is as follows:

Appointed by the Crown

A Secretary, with a salary of £700, rising to £900.

Appointed by the Board

A Medical Inspector, £500 to £800;
4 General Superintendents, £400 to £700;
A Chief Clerk, £650.
An Inspector of Audits, £550.
2 Staff Clerks, £350 to £500.
4 Minor Staff Clerks, £250 to £350.
20 Second Division Clerks, £70 to £350.
Assistant Clerk, Boy Clerk, and Typists.
Messengers and Housekeeper.

Duties of the Board

(*A*) *Annual Report*

The Board are required to submit every year to the Secretary for Scotland a Report of their Proceedings, with a statement as to the condition and management of the poor throughout Scotland, and of the funds raised for their relief. This Report is presented to Parliament.

(*B*) *Finance*

The Board have no duty in regard to assessment further than to advise any parish that is in doubt as to procedure. A loan under the Poor Law Loans and Relief Act of 1886 cannot be obtained without a certificate from the Board that the debt previously incurred has been properly charged against the assessments. A loan under section 28 of the Local Government Act of 1894 for the purposes specified in that Act, cannot be obtained without the Board's consent. Under the Poor Law Act, the only object for which a Parish Council may borrow is the erection, extention, or alteration of poorhouses. The Board's consent to the loan is not required; but no work can be undertaken until the Board have approved the plans.

(*C*) *Appointments*

The Inspector of Poor of a parish and the Medical Officer of a poorhouse cannot be dismissed, nor can their salary be reduced, without the consent of the Board. The Board may, of their own initiative, dismiss an Inspector of Poor or Medical Officer of a poorhouse who, in their opinion, is unfit or incompetent to discharge or who neglects his duties. This virtually gives the Board a right of veto on the appointment of these officers. The Board have not, however, exercised this right further than to determine that persons holding certain specified offices or following certain occupations are ineligible for the post of Inspector of Poor. They have also refused to permit the appointment of persons of immoral character. They recently intimated that they would not object to the appointment of a woman to be Inspector of Poor.

(*D*) *Complaints of Inadequate Relief*

Every applicant for relief who is dissatisfied with the amount or kind of relief offered to him is entitled to complain to the Board, who may grant a certificate authorising him to carry his case to the Court of Session, and to obtain the benefit of the Poor's Roll.

(*E*) *Appeals against Removal*

A person whom it is proposed to remove from one parish to another within Scotland, or to England or Ireland, may appeal to the Board, who have power to decide whether the removal shall take place. Boards of Guardians in England and Ireland may also appeal to the Board against a proposed removal to their respective countries.

(*F*) *Arbitrations*

Cases of disputed settlement, where the parties are agreed as to the facts, may be referred for arbitration to the Board, whose award is final. In practice, the Board arbitrate in all kinds of disputes arising under the Poor Law.

(*G*) *Poorhouses*

No poorhouse may be built, enlarged, or structurally altered unless the plan has been approved by the Board. No rules for the management of a poorhouse are valid unless they have been sanctioned by the Board. The rates to be charged for boarding paupers in a poorhouse require the Board's approval. No member of a poorhouse combination can withdraw without the consent of the Board.

General power of Board to direct the administration of the Poor Law

The Board are empowered to inquire into the management of the poor in every parish, to examine

persons on oath, to require answers or returns on all matters relating to the relief of the poor. They may also appoint Special Commissioners to hold inquiries. The Board may attend, or authorise their officers to attend but not to vote at, meetings of Parish Councils. In the event of any parish refusing or neglecting to perform its statutory duties, or obstructing the administration of the Poor Law, the Board may proceed against it in the Court of Session. In practice there has rarely been occasion for the exercise of this power. This is equivalent to saying that Parish Councils do their work well and conscientiously, and that the relations existing between them and the Board are highly satisfactory.

Board's Inspecting Staff under the Poor Law

The Board's Inspecting Staff consists of four general Superintendents, whose duty it is to travel constantly among the parishes, supervising the administration of relief, and conducting special inquiries. The Board have divided the country into four districts, namely:

(1) The Northern Highland: comprising the counties of Banff, Caithness, Elgin, Inverness, Nairn, Orkney, Ross and Cromarty, Sutherland, and Shetland.

(2) The Southern Highland: comprising the counties of Aberdeen, Clackmannan, Fife, Forfar, Kincardine, Kinross, and Perth.

(3) The South-Eastern: comprising the counties of Argyll, Berwick, Bute, Dumbarton, Edinburgh, Haddington, Linlithgow, Peebles, Roxburgh, Selkirk, and Stirling.

(4) The South-Western: comprising the counties of Ayr, Dumfries, Kirkcudbright, Lanark, Renfrew, and Wigton.

The General Superintendent for the South-Western District also inspects the poorhouses.

The General Superintendents are authorised by the Board to attend meetings of Parish Councils and to take part in the discussions, but not to vote; to obtain information and returns from Inspectors of Poor; to summon witnesses and examine them on oath; and to require the production of books, accounts, and writings. They are instructed to point out to the Parish Councils, and to report to the Board, any incorrect or illegal procedure that they may observe. They are to endeavour to visit each parish once a year, and to ascertain, by visiting the paupers at their homes, whether relief is being properly administered. They report each visit on a form prescribed by the Board. They are to satisfy themselves that the Inspector of Poor keeps his books and accounts, and otherwise performs his duties properly. They are frequently required to make special inquiry into complaints of inadequate relief and appeals against removal addressed to the Board, and into charges of misconduct or neglect of duty by Inspectors. They are specially required to inform the Board of cases in which, in their opinion, relief is being improperly given.

Audit

The duty of auditing the accounts of Parish Councils, placed on the Board by section 36 of the Local Government Act of 1894, gives them a great deal of power. The Board appoint and remove auditors, regulate their fees, and instruct them in the performance of their duties. This work is in charge of an Inspector of Audits, who makes it his constant care to secure a high degree of efficiency on the part of every auditor. He instructs the Auditor as to procedure and as to what constitutes legal expenditure. He also investigates the conduct of officials charged with financial default. The Board prescribe the forms

of books and accounts. When the Auditor discovers any item of expenditure that he considers to be illegal, he reports it to the Board, who determine as to the legality, and whether, if illegal, they shall surcharge the Parish Council. If the payment, though illegal, has been made in error, the Board do not usually exercise this power. But surcharge usually follows a payment knowingly made in defiance of the law. The persons surcharged are those who have made the illegal payment; this has been interpreted to mean those who signed the cheque; or, in the case of cash payments, the clerk, Inspector, treasurer, or other persons directly responsible for the payment (Auditor of Lanark *v.* Lambie, 7 F. 1049). Every sum so surcharged must be paid within fourteen days. If not paid, it is the duty of the Auditor to recover it at the expense of the Parish Council. But the Board exercise their power to surcharge illegal expenditure with great discrimination and forbearance.

Public Control of Local Government Board

It is sometimes stated that the control exercised by the Board over local administration is a violation of the principles of democratic government. Parish Councils elected to carry out the will of the ratepayers, finding themselves prevented from embarking on a cherished (but probably illegal) scheme, complain that their powers are imaginary and that their functions are superseded by the Board. It is usually forgotten, however, that the Board is governed by the same laws that govern Parish Councils. Naturally, the Board, from their greater experience, are better qualified to know the law than the average Parish Council; and if the law is at fault, the remedy is to secure its amendment.

There are two types of Parish Councillor who are at

times dissatisfied with the Board. There is the man with high social ideals, who is burning with a desire to abolish the sin and misery and shame of poverty. He resents the apparent lack of sympathy and initiative in the official intimation that his proposals are illegal or impracticable, and that meantime he must be content with the existing machinery. He is acutely conscious of the impotency of the present Poor Law to deal with the social problems of our great cities and depopulated rural districts, and imagines that, but for the Board, the Parish Council would be able to make innumerable social experiments.

Or, there is the wealthy Parish Councillor of intensely conservative instincts, who believes that poverty is wholly the product of vice and laziness, and that all applicants for relief are idle impostors. He wishes every applicant to be sent to the poorhouse, and every poorhouse to be a penal institution. He hotly resents the Board's action when they issue an instruction that widows with children should receive liberal aliment;[1] that decent old paupers should not be required to enter the poorhouse; that the poorhouse itself should be a humane, well-furnished institution, conducted on the principles of justice and mercy; that the Inspector of Poor and the Medical Officer must give careful and kindly attention to the poor; that, in short, the duty of the Parish Council is to relieve poverty, not to ignore or repress it.

These different points of view indicate the course which the Board are obliged to follow. They are tied by the existing law and must oppose whatever is inconsistent with the law; but all their efforts are directed to seeing that the law is carried out efficiently and humanely, and that injustice and suffering are prevented. It must also be kept in view that a radical departure from established

[1] See Appendix VI.

practice nearly always entails legislation, and that a Government Department is singularly helpless in initiating legislation with a Parliament constantly pressed by the constituencies to deal with larger issues. Parish Councils must themselves bring the pressure of public opinion to bear on Parliament when they wish to modify or reform the law.

If the Board oppose public opinion in a question of policy regulated neither by the Poor Law Acts nor by common law, the Parish Councils may give expression to their views through their representatives in Parliament. The President of the Board is a member of the Cabinet, and, through him, the Board is subject to the control of Parliament. The President is reponsible to Parliament for the procedure of the Board. In theory, the appointed Members have no will apart from the President. It is open to argument, however, whether the Board should not more directly represent public opinion. This might be effected by adding to it several persons who should change with the Government. Those persons might be Members of Parliament whose knowledge of local affairs would give value to their counsel. The effect of such an arrangement would be that, while the appointed Members gave continuity and consistency to the work of the Board, the varying Parliamentary Committee would tend to give greater weight to its decisions and to make its policy more mobile and more in touch with public opinion. It is certainly undesirable that Parish Councils should have the least justification for thinking that the Board in any way acts as a barrier to the free expression of the will of the community.

CHAPTER III

PARISH COUNCIL OFFICIALS AND THEIR DUTIES

The Inspector of Poor

THE chief executive officer under the Poor Law is the Inspector of Poor. In a parish of average size, his duties are so numerous and difficult that a good Inspector must be a man of intellect, education, tireless energy, tact, and benevolence. The Inspector is brought into contact with imposture so often that he is apt to think that all applicants for relief are rogues. If an Inspector acquire this conviction and act on it, he will tend to discredit both his office and the Poor Law. In dealing with the poor, breadth of judgment, ability to discriminate between truth and falsehood, good temper, and charity are absolutely necessary. No Inspector should acquire a reputation that will make a decent poor person afraid to apply for relief.

The Inspector is appointed by the Parish Council. It is usual, but not obligatory, to advertise a vacancy. It is not competent to appoint two Inspectors for one parish, unless the parish is divided into two districts, with an Inspector for each district; but Sub-Inspectors may be appointed (Board of Supervision *v.* Glasgow, 1850, 12 D. 627). The Board do not exercise a right of veto on appointments, but they have specified certain

offices and occupations as, in their opinion, incompatible with the position of Inspector. These are:

Procurator Fiscal;	Publican or licensed grocer;
Justice of Peace Clerk;	Member of a School Board;
Factor or land steward;	Town Councillor;
Sheriff officer;	Bailie or Magistrate.
Political Agent or Secretary to a Political Association;	

A woman is eligible for appointment as Inspector of Poor.

The Parish Council have no power to dismiss an Inspector (Board of Supervision *v.* Dull, 1855, 17 D. 827. Seaton *v.* Arbroath, 1896, 23 R. 763; P. L. M. 1896, 352). But a Sub-Inspector may be dismissed after reasonable notice (Macpherson *v.* Adamson, 1858, P. L. M. 29). The Parish Council are not entitled to reduce the salary of an Inspector (Board of Supervision *v.* Old Monkland, 1880, 7 R. 469). The Board may dismiss an Inspector of Poor who, in their opinion, is unfit or incompetent to discharge the duties of his office. The Parish Council are then required to appoint another Inspector. The Parish Council have no statutory authority to grant a superannuation allowance to an Inspector; but an aged Inspector is frequently appointed to the post of assistant Inspector, with a salary. In this capacity his duties (which are usually nominal) are regulated by the Parish Council.

In sparsely-peopled parishes the salary that the Parish Council are able to give the Inspector is usually so small that he must have some other occupation in order to live. Frequently the parish schoolmaster is also Inspector. But even in the smallest parish the Inspector has a great deal of work. He must receive and deal with all applications for relief; he must pay

at intervals not greater than a month the aliment of every pauper on the roll; he must keep his accounts carefully and accurately in the prescribed books; he must visit every pauper and every pauper lunatic [1] in the parish, or within 5 miles of it, once in each half year; he must arrange for removals to the poorhouse and to the asylum, and for the transference of paupers to their parish of settlement or to England or Ireland. He supervises boarded-out children. He has annually to prepare for the Local Government Board numerous statistical returns and the claims on the Medical Relief and Lunacy Grants. He must be familiar with the Law of Settlement, and quick to detect the settlement of an applicant for relief. In many cases of disputed settlement he must conduct a difficult correspondence with skill and unfailing courtesy. He must recover as much as possible of the cost of paupers from relatives legally liable for their support. He must attend the meetings of the Parish Council and be prepared to supply full information regarding any case that may come up for discussion. If no Clerk has been appointed, he must keep the minutes of the Parish Council, prepare annually the abstract of accounts for the Auditor, and conduct all work and correspondence relative to the special duties placed on the Parish Council by the Local Government Act. He must submit to the Parish Council at their budget meeting in July an estimate of the amount that will be required to meet the expenditure for the year.

The Inspector is required to keep the following books prescribed by the Local Government Board:

1. A record of applications for relief.
2. A general register of poor.

[1] When the lunatic belongs to another parish, the Inspector of the parish of residence is not required to visit unless the parish of settlement agrees to pay him for his trouble.

3. A separate register for children.

4. A register of cases in which the settlement has not been admitted or ascertained.

5. A pay roll.

6. A day cash book.

7. A general ledger.

His statutory visits to paupers must also be recorded on a prescribed form.

The Inspector receives from the Registrar the half-yearly lists of persons who have not complied with the Vaccination Act. Usually before submitting this list to his Parish Council, he visits the defaulters and ascertains the cause of default. In this way he is frequently able to reduce the number of cases on which action is required. He usually conducts prosecutions under the Vaccination Act.

By section 80 of the Poor Law Act of 1845, he is required to conduct the prosecution of husbands or parents for deserting or neglecting to maintain their dependants.

The Collector of Rates

In most parishes the Inspector is also Collector. The duties of the Collector are: (1) He prepares the Assessment Roll from the Valuation Roll by making the deductions required by section 37 of the Poor Law Act and by the Agricultural Rates Act; (2) having ascertained the assessable rental, he assists the Parish Council to fix the rates; (3) he prepares and issues the assessment notices and collects the assessment; (4) he sues for arrears of rates. As the Parish Council in the great majority of cases collect also the school rate, the Collector usually incorporates the two assessments in one notice. In most parishes there is also a small rate for registration. In landward parishes and in landward

areas there is generally a special parish rate for the carrying out of the Parish Council's functions under Part IV. of the Local Government Act. The Collector pays the assessments into the bank as soon as possible after receipt. He conducts all correspondence relative to the assessment and to exemptions and deductions.

Clerk of the Parish Council

The Clerkship of the Parish Council is an office created by the Local Government Act of 1894. The work of the Clerk is less onerous than that of the other officials. In most parishes the Inspector is also Clerk. The Clerk keeps the minutes of the Parish Council and conducts its general correspondence,—that relating to the relief of the poor remaining in the hands of the Inspector. The Clerk prepares annually the abstract of accounts for the Auditor and arranges for the publication of the accounts and for making them available to the ratepayers for inspection prior to the audit. Generally, the functions of the Clerk are somewhat indefinite, and are largely a matter for arrangement by the Parish Council.

Auditor

The Auditor is appointed by the Local Government Board, but his fee is paid by the Parish Council. He is required to make himself familiar with the various Statutes under which Parish Council expenditure is incurred, and with the Board's rules and instructions. The Board endeavour to arrange that the auditor shall have no local interest in the parishes whose accounts he audits. An Auditor is usually appointed for a parish or group of parishes owning a poorhouse. The Auditor for the parish audits also the accounts of the poorhouse. The accounts, together with books, vouchers, etc., should

be sent to the Auditor by the Clerk of the Parish Council as soon as possible after the 15th of May in each year, and not later than the first day of August. An abstract of the accounts in duplicate must also be lodged with the Auditor. The Auditor is required to give the Clerk at least twenty-eight days' notice of the time and place of audit, so that the Clerk may give the statutory notice of fourteen days to the ratepayers. Any ratepayer is entitled to object to items in the accounts, and the Auditor must receive and consider objections. The Auditor is required to report irregularities to the Local Government Board. If the Auditor is of opinion that a payment is illegal and should be disallowed, he reports such payment to the Board, stating the reasons for his opinion. The Board then determine whether the payment is illegal, and if so, whether a surcharge shall be made. After the conclusion of the audit, the Auditor certifies the abstract of the accounts, and sends one copy to the Parish Council and the other to the Board.

Parish Medical Officer

The appointment of a Medical Officer is not prescribed by Statute. Section 69 of the Act of 1845 requires every parish to provide medicines, medical attendance, nutritious diet, and cordials for the poor, in such manner and to such extent as may seem equitable and expedient. In practice, nearly every parish has found that the best way of complying with this provision is to appoint one or more medical officers at a fixed salary. The Board of Supervision made the appointment of a Medical Officer in a sense compulsory. A grant in aid of medical relief was established shortly after the passing of the Poor Law Act, one of the conditions of participation being that the parish should appoint a Medical Officer at a fixed salary.

Another condition was that every vacancy in the Medical Officership should be advertised once in each of three consecutive weeks in a newspaper circulating in the county.

The Medical Officer holds his appointment at the pleasure of the Parish Council. The tenure of his appointment depends wholly on the agreement that he makes with the Parish Council.[1] The Medical Officer or the Parish Council may stipulate that the engagement shall be for not less than a certain period, and that it shall not be terminated without notice on either side of any stated period from a month to a year. It may be mentioned that the position of the Parish Medical Officer is less insecure than might be imagined, as Parish Councils are generally most anxious to retain the services of a good man. Instances of capricious or unjustified dismissal are very rare.

The Medical Officer plays an important part under the Poor Law. As no person is legally entitled to relief unless he or she is disabled as well as destitute, the majority of applicants require to be examined by the Medical Officer before their names can be placed on the roll of poor. Further, as the paupers on the outdoor roll are all more or less disabled, the Medical Officer is required to attend them and to see that they are supplied with such medicines, medical appliances, and nutritious diet as may be necessary. The Medical Officer must examine every case of alleged lunacy occurring in the parish, and certify when necessary. He must visit once in each quarter every lunatic residing in the parish. He visits defaulting parents with a view to vaccinating their children when so requested by the Parish Council. He vaccinates the children of paupers as part of his ordinary duty.

[1] A Medical Officer might secure fixity of tenure by stipulating in his agreement that he should not be dismissed without the consent of the Local Government Board.

The work of the Medical Officer thus falls under three heads: (1) Poor Law; (2) Lunacy; and (3) Vaccination. For each class of work his remuneration must be fixed separately, as only the salary paid to him for work under the Poor Law can be claimed against the Medical Relief Grant. For work under the Lunacy Acts he may be remunerated either by a salary or by fees, according to agreement. The usual fee for a certificate of lunacy is one guinea; for a quarterly visit, five shillings. The Act prescribes that, as Vaccinator, he shall be paid a fee[1] *by the Parish Council* for each successful vaccination. Sometimes, in view of the great distances to be traversed, the Parish Council think it proper to give the Vaccinator a salary in addition to the statutory fees. This course is to be commended.

Under the rules of the Medical Relief Grant, the Medical Officer is not entitled to extra remuneration for any attendance that he may be required to give to the ordinary poor resident in the parish, even although their settlement may be in another parish. But if the other parish does not participate in the Medical Relief Grant, the Medical Officer may charge for his work. He is also entitled to charge for attendance on lunatics or children *boarded* in the parish by the Parish Council of another parish. Attendance on cases of childbirth is included in the Medical Officer's salary; but if it should be necessary to obtain the aid of a second medical man, the Parish Council must defray the extra cost. When this extra expense is incurred on behalf of a pauper whose settlement is in another parish, it will form a proper claim against that other parish.

[1] The fee is one shilling and sixpence when the defaulter lives within two miles of the vaccinator, and two shillings and sixpence when beyond that distance. The Board of Supervision in their Rules require the Parish Council to pay the vaccinator a fee for every visit.

Governor of Poorhouse

The Governor of a poorhouse, although not directly under the Parish Council, fulfils a very important function. The poorhouse was established by the Act of 1845, and is now an essential part of the machinery of the Poor Law. Designed originally as a home for the aged and friendless impotent poor, and for those who from weakness or facility of mind, or by reason of dissipated and improvident habits, are unable to take charge of their own affairs, it has—by the force of example and to some extent from necessity—become a workhouse on the English model, with a system of "deterrent administration" intended to eliminate, as far as possible, the element of imposture from applications for relief. A parish may own a poorhouse, or possess a share in a combination poorhouse, or have entered into an agreement to board paupers in a poorhouse. There are very few parishes that have not the right to use a poorhouse in one or other of these ways.

The poorhouse contains different classes of inmates, whose treatment is varied according to their character. The sick receive hospital treatment; the infirm and decent old people are supposed to live in dignified ease, occupying their ample leisure with reading and pleasant tasks; while inmates of depraved or doubtful character, if physically fit, are given plenty of work and made to feel that life is a species of discipline. In practice, however, it is difficult to maintain a strict classification of inmates according to character, and it is not easy for the same man to be both a terror to evil-doers and a comforter of the sick and aged. That is the position of the Governor of a poorhouse.

The Governor is appointed by, and holds office at

the pleasure of, the House Committee.[1] The appointment is not statutory, but is a product of the rules framed by the Board of Supervision, or by the Parish Councils, for the management of poorhouses. The Governor is responsible for the administration of the poorhouse, except as regards the actual treatment of the sick (which is under the Medical Officer).

Medical Officer of a Poorhouse

In one sense the Medical Officer is a more important person than the Governor, as, his appointment being prescribed by the Act, he can be removed from office only by the Local Government Board. Apparently the idea of the Act was that the poorhouse should be a kind of hospital, whereas in practice that idea has been in part lost sight of, and the functions of the medical officer are restricted to the care of the sick.[2] He classifies the inmates and certifies their fitness for the tasks given them. He also certifies when they are fit to be discharged as able-bodied. In three poorhouses a Medical Superintendent combines the functions of Medical Officer and Governor.

[1] In the case of a single-parish poorhouse, the Parish Council sometimes reserve the right to make appointments to the poorhouse staff.

[2] Where the Medical Officer is resident, he usually has entire charge of the hospital.

CHAPTER IV

REVENUE OF PARISH COUNCILS

Funds of the Parish Council

THE Poor Law cannot be administered without money, which is at once the motive power and lubricant of the machinery. Before the passing of the Act of 1845, the church-door collections formed the only fund generally available for the relief of the poor. The Privy Council proclamation of 1693 required that one-half of the collections at the parish church was to be handed over to the heritors for this purpose. The Act of 1579 gave a power to assess, but prior to 1845 this power was rarely exercised except in the large town parishes. It is generally accepted that Section 54 of the Act of 1845 freed the kirk-session from the liability to give one-half of the church-door collections to the relief of the legal poor. Mortifications or charitable bequests in the hands of the heritors and kirk-session or others were, however, in terms of section 52 of the Poor Law Act, either to be transferred, or their revenues were to be paid, to Parochial Boards. It has been held that this provision applies to all bequests left to the heritors and kirk-session for the benefit of the legal poor.

Grants in Aid

Apart from assessment and mortifications, the following Government grants are the only other source of income available to Parish Councils:

(*a*) Medical Relief [1] and Lunacy [2] Grants, amounting in all to £135,500, paid to the Parish Councils by the Secretary for Scotland on the certificate of the Local Government Board after audit of a claim sent from each parish.

(*b*) Grant in aid of rates, amounting to £50,000, distributed among the parishes by the Secretary for Scotland according to population and valuation.

(*c*) Agricultural Rates Grant, being a contribution in lieu of the abatement of valuation accorded to agricultural occupiers by the Agricultural Rates Act of 1896. This grant is calculated on the assessment levied in the year 1895–96; and, where the assessment has since increased, is now less than the amount abated.

(*d*) A contribution by the Treasury in lieu of rates on Government property which, by law, is exempt from assessment.

But these contributions form a small part of the expenditure on poor relief, and the balance is obtained by assessment on owners and occupiers of property in each parish.

Power to Assess

The power of the Parish Council to assess is derived from sections 32 to 40 of the Poor Law Act of 1845. By section 38, the Parish Council are authorised to prepare a roll containing the names of those liable to be assessed, and to appoint a collector. By section 34 they are authorised to levy one-half of the assess-

[1] See Appendix IV. [2] See Appendix III.

ment on owners and one half on occupiers. This means that an equal amount is to be raised from—not an equal rate imposed on—each class (Galloway *v.* Nicolson, 1875, 2 R. 650; P. L. M., 1875, 203).

Classification and the Agricultural Rates Act

By section 36, the Parish Council were authorised to classify the rate imposed on occupiers according to the nature of the subjects. Thus it was usual to assess dwelling-houses on the full rate; farms at, say, one-half; sporting subjects at two-thirds, etc. A classification of rates required the sanction of the Local Government Board. The Agricultural Rates Act of 1896 made what is, in effect, a classification of agricultural, as distinguished from other, subjects, compulsory, by enacting that, during the continuance of the Act, land should be assessed on only three-eighths of the rent. It deprived Parish Councils of the right to initiate new classifications; but existing classifications, if certified by the Secretary for Scotland to be consistent with the provisions of the Agricultural Rates Act, were permitted to continue. The effect of the Act was that the majority of classifications were abandoned. As stated, a grant is given to make up for the deficiency; but, being based on the assessment of 1895–6, it is now in many parishes inadequate.

Deductions under Section 37

By section 37, something of the nature of a classification is introduced. The Valuation Roll received by the Parish Council from the Assessor contains the gross rental of all Assessable subjects. But before the Parish Council can assess, they must deduct from the gross rental "the probable annual average cost of

the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same." This section causes a good deal of trouble, and its repeal has frequently been suggested. In applying the section, certain percentages are usually regarded as fair average deductions in respect of the burdens specified. Railways, public works, and factories have hitherto received the largest deductions. Any ratepayer is entitled to produce evidence to show that the deduction allowed to him is insufficient. Railways and canals are valued by an Assessor specially appointed for that purpose.

Nett Valuation

It is only after (1) the deductions required by section 37 have been made, (2) the statutory abatement of valuation has been given to agricultural occupiers, and (3) the subjects legally exempt have been removed from the assessment roll, that the Parish Council are in a position to know the actual valuation on which they can assess.

Exemptions

The following subjects are exempt from assessment:

1. Mines and quarries that have not been worked during any part of the year preceding the day on which the assessment is ordered to be levied.
2. Churches, chapels, meeting-houses, and "premises appropriated exclusively to public religious worship." (Premises attached to a church, but used for social meetings, etc., are not exempt.)
3. Burial grounds.
4. Sunday and ragged schools.

5. Societies established exclusively for purposes of science, literature, or the fine arts.

6. Militia and volunteer stores.

7. Lighthouses.

8. The manses and glebes of civil and *quoad sacra* parishes (exempt only from *poor* rate).

9. Lands and heritages occupied by the Crown or by its servants for Crown purposes. This applies to property occupied by the army and navy, by the police and prisons, and by Post Offices. (The Treasury give a grant in lieu of the assessment that would fall to be paid in respect of such property.)

10. Persons who, on account of poverty, are unable to pay. (Paupers are invariably exempted.)

Method of fixing the Rate where there is no Certified Classification

The method of fixing the rate is necessarily complicated, and requires explanation. Let us suppose that the assessable rental amounts to £3200 and that £250 is wanted. Of that £250 a certain proportion will be met by Government Grants. Accordingly we deduct the amount that we are likely to receive from Grants, excluding the Agricultural Rates Grant, thus:

£250 = gross sum required,
Less £30 = sum likely to be received from Government Grants, excluding Agricultural Rates Grant.

Leaving £220 to be raised from owners and occupiers. One-half of this, £110, must be raised, by assessment, from owners.

We calculate the rate thus:

Valuation.	Sum required.	Rate.
£3200)	£110	(8¼d.
	20	
	2200	
	12	
	26400	
	25600	
	800	
	4	
	3200	
	3200	

That is to say, a rate of 8¼d. per £ must be imposed on owners in order to obtain £110.

The other half of £220 (£110) is to be raised from occupiers. But first we deduct the amount to be received from the Agricultural Rates Grant. Let this be £15. We then require £95. But we have not the full valuation of £3200 that we had in the case of owners—probably £200 will have to be deducted in respect of unlet property and exemptions and another £400 in respect of the abatement of five-eighths of the rental of agricultural subjects. The position would then be:

Valuation . . .	= £3200	
Less unlet property and exemptions	200	
„ ⅝ of rental of agricultural subjects . .	400	
Leaving an assessable rental of	£2600	

Occupiers' half of assessment = £110
Less Agricultural Rates Grant = 15

Sum to be raised by assessment, £95

We then proceed as before:

Valuation.	Sum required.	Rate.
£2600)	£95	($8\frac{3}{4}$d.
	20	
	1900	
	12	
	22800	
	20800	
	2000	
	4	
	8000	
	7800	
	200	
	2600	= $\frac{1}{13}$

That is to say, a rate of $8\frac{3}{4}$d. or 9d. would be required to produce £95. In estimating the amount of assessment to be raised from occupiers, it is necessary to take into account the fact that several occupiers will probably fail to pay their rates.

Method of fixing the Rate where there is a Certified Classification

Where the parish has a certified classification, the procedure for ascertaining the rate per £ to be levied

on owners is the same as that just shown. To ascertain the rate on occupiers, we proceed as follows:

As before, we find that a sum of £95 is required; but we deduct from the assessable rental only the probable amount of unlet property and exemptions (£3200 – £200 = £3000). Where there is a certified classification, there is no abatement of valuation for agricultural occupiers. Let us suppose the classification to be:

Dwelling-Houses	= Full rate.
Shops . .	= two-thirds of full rate.
Factories .	= three-fourths „
Land . .	= one-third of „

We are required to find a rate that, if applied in full to houses, if two-thirds be applied to shops, three-fourths to factories, and one-third to land, will produce £95. Let us take an imaginary full rate of say 1s. (which gives an even result if divided by each of these fractions). Then we have:

Houses, with a rate of		12	pence.
Shops	„ „	8	„
Factories	„ „	9	„
Land	„ „	4	„

We next ascertain the exact valuation of each class of property. Let us suppose it to be:

Dwelling-Houses . .	£1500
Shops	500
Factories . . .	200
Land	800
Total .	£3000

Taking our imaginary rate of 1s., we ascertain what it would produce if applied to these subjects:

£1500 at 12d.	.	=	£75	0	0
500 at 8d.	.	=	16	13	4
200 at 9d.	.	=	7	10	0
800 at 4d.	.	=	13	6	8
Total	.		£112	10	0

That is to say, a rate of 1s. would yield £112 10s. The next step is to ascertain what rate would produce £95. We state this as a question in simple proportion. If a rate of 1s. produce £112 10s., what rate will produce £95?

£112 10s.	:	£95	::	~~1s.~~
20		20		4d.
~~2250~~		~~1900~~		
~~225~~		~~190~~		
~~45~~		38		
15				

$$\frac{4 \times 38}{15} = 10\tfrac{2}{15}\text{d.}$$

That is, a full rate of $10\frac{2}{15}$d. will produce the sum required (£95). In general, it is desirable to state this as the nearest sum convenient to handle, say $10\frac{1}{2}$d. It is an advantage if the rate chosen produce a few pounds more than the exact amount required. In the present case a rate of $10\frac{1}{2}$d. will produce £97 12s.

Assessment Notices

School, Registration, and Special Parish Rates are similarly ascertained. All these rates may be included

in one assessment notice, but this notice should show, besides the total rate, the amount of rate applicable to each service, thus:

Assessable Rental, £12	Poor Rate at 10½d. per £ School „ 6d. „ Registration Rate at ¼d. „ Special Parish Rate at 1d. „	1/5¾ =	s. 17 d. 9

Agricultural Rates Act

The cumbrous method, just described, of fixing the rate on occupiers is necessary only in the few parishes that have retained classification. Most parishes have abandoned classification, adopting only the compulsory classification introduced by the Agricultural Rates Act. This Act has certain disadvantages. In the Hebrides, for example, where the rent of a croft rarely exceeds £5, and is often less, the Agricultural Rates Act has made the tenants' valuation so small that the crofter, while apparently burdened with a very high rate, pays very little assessment; and, as the Grant is rarely equal to the amount abated, a serious hardship is inflicted on those ratepayers who are not crofters. There is no legal power to distinguish the valuation of a house from that of the croft on which it is situated; so that a house with a valuation of, say, twenty pounds may be included in a croft valued at fifty shillings per annum. The old argument that land should receive special exemption, because a farmer's rent is no criterion of his income, is not really in point. It must be kept in view that whatever reduces the burdens on a farm sooner or later increases its rent by that amount, rent, generally speaking, being determined by a system of open competition that

takes all burdens into account, leaving the surplus as rent. Therefore, any abatement of the public burdens on land is ultimately an augmentation of rent, and benefits the tenant only during the currency of existing leases. In that sense, the Agricultural Rates Grant is a contribution in aid of rent by the imperial taxpayer. It is also unfair to the urban and non-agricultural ratepayer, who pay full rate on their houses, that a farmer's house is not valued apart from his land and rated in full.

Collection of Rates

During the process of collection the Collector is required to lodge the rates in bank daily or at short intervals. He must also apportion the sums received to the various heads of the assessment. He may institute proceedings by summary warrant or by action in the Small Debt Court for the recovery of rates. In bankruptcy, poor rates are preferred to all debts of a private nature.

Borrowing Powers

By section 89 of the Act of 1845, a Parish Council is authorised to borrow, while the assessment is being collected, a sum not greater than one-half of the assessment due but not paid. In practice, it is usual to obtain a bank overdraft.

The only other borrowing power of Parish Councils under the Poor Law Acts is for the erection, extension, or alteration of poorhouses. The total sum borrowed must not exceed three times the amount of assessment for the poor raised during the year immediately preceding. The debt must be repaid within thirty years. In a parish with a population less than 100,000 no new loan can be incurred until all debt has been paid. Where the population exceeds 100,000, further borrowing can take

place before the debt is paid off, provided that the debt as a whole does not exceed three times the assessment for the preceding year.

Under section 27 of the Lunacy (Scotland) Act, 1866, a Parish Council may borrow "for the administration, maintenance, erection, or extension" of buildings "for the treatment of such pauper lunatics as they are authorised to receive and detain." This would apply to parochial asylums and to wards of poorhouses licensed to receive lunatics. A loan incurred under this section must be repaid within thirty years.

Important Decisions affecting Assessment

(1) A water company is liable to be assessed for poor rate as owners and occupiers of the ground under the streets of a city in which their pipes are laid (Hay *v.* Edinburgh Water Co., 1850, 12 D. 1240). Commissioners appointed by Statute to supply water to a community are also liable for assessment (Glasgow Magistrates *v.* Miller and Adamson, 1857, 20 D. 290). When the works and plant for supplying water to a city or district are in, or pass through, other parishes, the Water Commissioners are liable to be assessed in respect of the annual value of their property in each of those parishes.

(2) A charitable institution is liable for assessment (Greig *v.* Governors of Heriot's Hospital, 1866, 4 M. 675; P. L. M. 1865–6, 558).

(3) Church premises occasionally used for temperance and social meetings are assessable (College Street U. F. Church *v.* Edinburgh Parish Council, 1901, 3 F. 414; P. L. M. 1901, 196).

(4) Unlet property is liable to be assessed for the owner's proportion of poor rate (Tod *v.* Mitchell, 1858, 20 D. 445).

(5) A Parish Council is not entitled to exempt from assessment a class of occupiers on the ground that their rent is under a certain sum (Douglas *v.* Dickie, P. L. M. 1867–8, 365).

(6) When two persons (*e.g.* a shooting tenant and a grazing tenant) occupy the same land for different purposes, each is liable for poor rate (Crawford *v.* Stewart, 1861, 23 D. 965; P. L. M. 1860–1, 607).

(7) Income Tax is not to be included in the deductions prescribed by section 37 of the Poor Law Act (Glasgow Magistrates *v.* Hall, 1887, 14 R. 319).

CHAPTER V

ADMINISTRATION OF POOR RELIEF

Applications for Relief

SECTION 70 of the Poor Law Act provides that, if a poor person apply for parochial relief, the Inspector of Poor shall inquire into his circumstances; and if he finds that the applicant is legally entitled to relief, he shall grant the same, notwithstanding that the applicant may not have a settlement in the parish. The Inspector of Poor is required to return an answer to the application within twenty-four hours; but in the majority of cases there is no such delay. The Inspector must use a wise discretion in dealing with applications. If delay resulted in an accident to, or in the death of, the applicant, the Inspector of Poor would probably be prosecuted by the Crown for criminal negligence.[1] The position, therefore, is that, when a person applies for relief, the Inspector of Poor, pending such time as he can receive the instruc-

[1] In 1893 the Procurator-Fiscal at Kirkwall prosecuted the Inspector of Poor for neglect of duty by failing to give sustenance and attention to Barbara King, thereby accelerating her death. It was held by the Sheriff that the Inspector had been guilty of a technical neglect of duty. The Inspector "erred because he had been so bothered by the deceased, and thought his duty ended with the offer of the Poorhouse. He now admitted that his duty was not thereby ended, and that he had further duty" (Procurator-Fiscal *v.* Sinclair, P. L. M. 1893, 387).

tions of his Parish Council, is authorised, after inquiry, to grant such relief as he may deem proper. In considering an application, the Inspector must not take into account the question of settlement. That arises later, and should not be permitted to influence the Inspector's judgment.

Relief given solely on the authority of the Inspector of Poor is to be regarded as of a temporary or provisional nature. Not until the Parish Council have confirmed the Inspector's action can the name of the applicant be placed on the Roll of Poor. In such circumstances, the date on which relief was first given is taken to be the date of the applicant's admission to the roll. The Parish Council or Relieving Committee should carefully consider each case placed before them by the Inspector.

In determining whether relief should be granted or withheld, the Inspector of Poor is guided by two considerations, which may be stated in the form of questions. First, Is the applicant destitute? second, If destitute, is the applicant disabled by sickness or infirmity? The first question must be answered by the Inspector himself. That is, he must make such inquiry as will satisfy him that the applicant has not sufficient means to enable him or her to live without relief. The Inspector may take an applicant before a Justice of the Peace, and require him or her to answer questions on oath. An applicant giving false information may be prosecuted for perjury. As regards the second question, the sickness or disability of the applicant will at times be so obvious as to require no further proof. Even to a casual observer it is usually quite evident whether a blind, lame, or an aged person, without special resources, is able to earn a living. In addition to these, a widow with young children will, as a rule, be held to be disabled in respect that she is incapable of gaining a livelihood for herself and her children.

In the same way an orphan or deserted boy or girl under the age of puberty (twelve years for a girl and fourteen for a boy) is incapable of earning a living, and requires to be fed, lodged, clothed, and educated. But there is a large class of applicants who, unless suffering from a specific ailment or disease, ought to be quite able to support themselves. Before giving a decision on applications from such persons, the Inspector of Poor is obliged to invoke the assistance of the Parish Medical Officer, and he is entitled to give relief only after the Medical Officer has certified disability. This has the effect of making the Medical Officer (though not a statutory official) virtually the judge in a large proportion of cases, and an essential part of the Poor Law machinery.

Relief of the Able-Bodied

The Poor Law Act is careful not to limit the class of persons entitled to relief. It specifies those for whom poorhouses are to be provided, but for the out-door poor it spreads a wide net. It remained for the Court to invent a qualification for relief. Section 70 provides that, when a poor person applies for relief, the Inspector of Poor "shall be bound to make inquiry forthwith, and shall, notwithstanding such poor person may not have a settlement in the parish or combination, if he be in other respects legally entitled to parochial relief, be bound to furnish him with sufficient means of subsistence. . . ." The next section enacts that, when relief is given to a person found *destitute*, such relief may be recovered by the relieving parish from the parish in which the pauper has a settlement. From this it would appear that the Act contemplated that relief should be given to every applicant who, after inquiry, was found to be destitute. That is, it would include the destitute "unemployed." To secure this the framers of the Act added to section 68

these words: "Provided always that nothing herein contained shall be held to confer a *right* to demand relief on able-bodied persons out of employment." It was at first understood that the intention of this clause was to make it competent for parochial boards to relieve able-bodied persons out of employment and destitute, but not to entitle such persons to *claim* relief as a matter of right. This is not illogical; for, while it may be desirable (even necessary) to relieve a person who, through no fault of his own, is unable to obtain employment, it would never do to place, say, a body of strikers in the position of being able to *demand* relief out of the rates during their voluntary abstinence from work. This view was acted on for nearly twenty years, and was superseded only in 1864, after the decision by the Court of Session and House of Lords in the famous case of Isdale *v.* Jack (1866, 4 M. H.L. p. 1).

Mr. Isdale, a member of the Parochial Board of Dundee, raised an action in the Court of Session against the Inspector of Poor, as representing the Parochial Board, to prohibit him from giving relief to able-bodied men out of employment. The case was carefully considered by the whole Court, and it was argued that, in terms of the provision of section 68, Parochial Boards might, if they saw fit, relieve destitute, unemployed persons, but were not bound to do so. "I think," said the Lord President, "that an able-bodied person has no right to insist on relief, but I am of opinion that it is competent to grant relief when necessity arises—when they see a fit case for it. . . . I am aware that, from the Report of the Commission for inquiring into the Poor Law, it appears that this matter had been canvassed by the Commissioners, and that they were of opinion that the conferring of such a discretionary power was inexpedient. I do not participate in these apprehensions. . . . The

state of some portions of the country on account of agricultural distress, and of other portions of the country on account of manufacturing distress, has been such that it has been found necessary to resort to that mode of relief; and, by acting on the view of the Statute to which I have referred, temporary relief was given to destitute able-bodied persons out of the funds for relief of the poor without applying to Parliament for extraordinary aid, as we find was necessary in England; and there were no evil consequences."

A majority of the Court refused to accept the Lord President's opinion, holding that, where there was no right to *demand* relief, there was no power to grant it. In passing, it may be pointed out that this reasoning is peculiar; for surely one may give sixpence to a beggar though the latter has no right to *demand* it. But the judgment of the Court of Session was confirmed by the House of Lords, and so the law has stood ever since.

But, in practice, neither Parish Councils nor the Local Government Board regard themselves as justified in absolutely withholding relief from destitute persons, even where physical disability is doubtful. The Board in their rules (page 64) say: "The Inspector should not carry the letter of the law to an extreme, and cause delay in a doubtful case by the necessity of an appeal to the Sheriff. *It is obvious that, if a person were really destitute, no long time would elapse before he also became disabled from want of food.*"

The practical effect of this is to place on the Inspector of Poor the very difficult duty of deciding when to grant and when to refuse applications for relief by the destitute unemployed.

Refusal of Relief

If an applicant is refused relief, he or she is entitled to appeal to the Sheriff, who can order interim

relief, and require the Inspector to appear before him and defend his refusal of relief. To facilitate an appeal to the Sheriff, the Local Government Board require every Inspector, when refusing relief, (1) to give the applicant "a certificate signed by the Inspector, which shall certify the fact, the grounds, and the date of such refusal;" and (2) to inform the applicant of his right of appeal. In practice, an order by the Sheriff to grant relief is usually met by an offer of relief in the poorhouse. The Sheriff has no power to determine as to the adequacy or kind of relief offered.

Complaints of Inadequate Relief

If relief is offered, but if the pauper is dissatisfied with the amount or kind, he is entitled to appeal to the Local Government Board. The Board have prescribed a form of complaint, and they require that every Inspector of Poor shall be supplied with copies of this form, and that he shall offer a form to every applicant who expresses dissatisfaction with the relief offered to him. If desired, the Inspector must fill up the form of complaint for the applicant and forward it to the Board, having added his own remarks in the spaces provided. The Board regard this as a very important part of an Inspector's duty, and have frequently requested Inspectors to be careful to make known to applicants their right of complaint.

On receipt of a Complaint of Inadequate Relief, the Board consider the statements of the pauper and the replies of the Inspector of Poor. If there is an element of doubt in the case, they endeavour to obtain further information by correspondence, or they direct one of their officers to make inquiry locally. If their officer advises that the complaint is not well founded, the Board uphold the decision of the Parish Council. If, on the contrary,

he states that the pauper has good ground for complaint, the Board convey his view to the Parish Council and ask them to reconsider the case. When a pauper lives in one parish but has a settlement in another, it frequently happens that the opinion of the Inspector of the parish of residence is pitted against that of the Inspector of the parish of settlement. The Inspector of the parish of residence may consider that the parish of settlement is acting harshly, and support the complainer. In a case of this kind, the Board, before making special investigation, may ask the parish of settlement to reply to the arguments put forward by the Inspector of the parish of residence. Parish Councils usually take a very reasonable view of these cases, and adopt the course recommended by the Board. In dealing with a Complaint of Inadequate Relief, the Board have not power to order relief in opposition to the will of the Parish Council; but they may grant the pauper a certificate that will entitle him or her to carry the case to the Court of Session and to obtain the benefit of the Poor's Roll. After proceedings have been instituted, the Board may, pending the decision of the Court, award the pauper such interim aliment as they think proper. As indicated, however, it rarely happens that cases are pushed to this extremity.

APPEALS AGAINST REMOVAL:

(*a*) Within Scotland

Sometimes relief is refused unless the pauper agrees to remove to the parish of settlement; or, the parish of settlement may order removal of the pauper to their poorhouse. By the Poor Law Act of 1898, a pauper who has resided for one year continuously in a parish before applying for relief is entitled to appeal to the Local Government Board against removal. If the

Board, after consideration and inquiry, are of opinion that the proposed removal is reasonable and proper, they dismiss the appeal. But if they are of opinion that the removal should not take place, they so determine. The parish of residence is then bound to aliment the pauper, and, if the rate of aliment be approved by the Board, may recover the aliment from the parish of settlement.

The Board invariably make careful inquiry before they exercise the drastic powers conferred on them by this Act. It should be noted that in this, and in the following appeals, the year of continuous residence necessary to confer a right of appeal need not be *immediately* before the date of application for relief. If necessary, a widow may include the residence of her deceased husband in the period necessary to make up residence of one year.

The Board have prescribed forms of Appeal and require Inspectors to acquaint persons whom it is proposed to remove with their right of appeal; and, if desired, to provide them with a form. This applies to all Appeals against Removal.

(*b*) From Scotland to England or Ireland

When a Parish Council obtain a warrant for the removal of a pauper to England or Ireland, the pauper, if qualified by continuous residence of one year in the parish without relief or application for relief, may, within fourteen days after intimation that the warrant has been granted, appeal to the Local Government Board against removal.

Where a pauper is legally entitled to appeal, removal should not take place until the expiry of fourteen days from the date on which intimation was made to the pauper that a warrant for removal had been granted.

(*c*) Appeals by Boards of Guardians in England or Ireland

Boards of Guardians in England or Ireland are entitled to appeal against the removal of a pauper from Scotland to a union or parish in England or Ireland, provided that the pauper has the requisite qualification of residence of one year in the parish from which it is sought to remove him. Appeal is competent only if made within fourteen days after receipt of the notice of removal. The Inspector of Poor is required to send a form of Appeal with the notice of removal in cases where a right of appeal exists.

In deciding these Appeals, the Board are instructed by the Act to have regard, *inter alia*, to:

(*a*) The length and character of the residence in Scotland;

(*b*) The causes why a settlement has not been acquired, or, if acquired, has not been retained; and

(*c*) Any circumstances tending to show that the exercise of the power of removal would unduly injure the interests of the poor person on account of the industrial employment of his children or otherwise.

The Board are not authorised to review the *legality* of a warrant of removal granted by the Sheriff. Their decision is based solely on grounds of expediency and justice.

If the Board are of opinion that a removal should not be carried out, they so determine, and their order is binding on any Parish Council in Scotland. If of opinion that the removal is reasonable and proper, they dismiss the appeal, and thereupon the warrant for removal may be carried out.

If, in consequence of a determination of the Board, a proposed removal to England or Ireland cannot be carried out, the Board are authorised to determine

which Parish Council or Councils shall be liable for the expense of the maintenance of the pauper; and if they think fit, in what proportions and under what conditions, and for what period, regard being had to the length and character of the pauper's residence in the parishes in question.

General Note as to Removals

Warrants of removal can be granted only by the Sheriff. The Board have expressed the opinion that it is legal to remove lunatics to England. This has sometimes been disputed by English Boards of Guardians, who regard themselves as precluded from removing lunatics to Scotland. Section 6 of the Act of 1898 makes it evident that lunatics may be removed to Ireland. Notice of the proposed removal of a lunatic to Ireland should be sent to the Superintendent of the District Asylum to which the lunatic is to be sent. Where an Appeal is clearly incompetent, a form of Appeal need not be sent to Boards of Guardians with the intimation that an order for removal has been granted. In such cases only twelve hours' notice of removal is necessary.

For reasons of equity, a Parish Council sometimes refrain from availing themselves of their power to remove English or Irish paupers.

Too much significance cannot be placed on the fact that these safeguards of the rights of paupers are effective only in so far as the Inspector of Poor makes them known to the persons concerned. Failure to do so is a most serious breach of duty.

Kinds of Relief

There are two kinds of relief: indoor and outdoor. According to section 60 of the Poor Law Act of 1845,

indoor relief, which is provided by the poorhouses, is for the "aged and other friendless impotent poor, and also . . . for those poor persons who, from weakness, or facility of mind, or by reason of dissipated and improvident habits, are unable to take charge of their own affairs." In practice, relief in the poorhouse has become in great part a test of the genuineness of destitution. Whenever there is doubt as to the propriety of granting relief in any form, indoor relief is offered. It will readily be imagined that the poorhouse, being designed chiefly for this type of case, has assumed a character that makes it very repugnant to the decent poor who, from age or infirmity, require to be sent to it. The odium attached to the average poorhouse is owing solely to the fact that it has acquired the character of a reformatory or penal institution rather than that of a hospital and home for the decent infirm and sick poor. In consequence, Parish Councils have now for many years been pleading for legislation that would give them power to remove compulsorily those sick and aged persons who obstinately refuse to enter the poorhouse, but who cannot be properly cared for in their homes. Such compulsory powers would probably be unnecessary if it were possible to classify the poorhouses, making some of them purely hospitals or almshouses, and the others workhouses after the English model. Assuming that the two types of institution are necessary, they ought to be kept distinct, the "test" poorhouse being a place for the discipline and regeneration of the flotsam and jetsam of society, preferably assuming the form of a labour colony.

Meantime, Parish Councils and their officials must consider how they can best apply to existing conditions the rules that have been framed for their guidance.

Every application for relief is first dealt with by the Inspector of Poor, who, on his own responsibility, takes such action as he thinks proper. However bad may be the character of an applicant, the Inspector of Poor cannot permit him to starve. Accordingly, the position may be stated thus:

(*a*) Applicants for relief, who are of good character, and who, though destitute, could continue to live in their present homes if granted aliment, should receive outdoor relief.

(*b*) Persons of good character, who are incapacitated by age and infirmity from attending to their own needs, should be placed in the sick or infirm wards of a poorhouse.

(*c*) Persons of bad character, who, though infirm, are able to attend to their own wants, but who cannot be trusted to make a good use of outdoor aliment, should be offered only relief in the poorhouse.

(*d*) But, irrespective of character, no destitute and disabled person can be permitted to starve. Therefore the Inspector of Poor, in refusing relief, or in offering indoor relief, must use the wisest and most watchful discretion in determining what applications he can safely refuse, and in what cases he can rigidly adhere to the offer of indoor relief.

Appeal to the Sheriff

In refusing relief, or in offering only indoor relief, the Inspector has two safeguards. If he refuses to grant relief, he must give the applicant a certificate stating the grounds of refusal, and tell him at the same time that he may take this certificate to the Sheriff, who will at once decide whether relief ought to be given. (In practice, the certificate is usually taken to the Sheriff Clerk.) If the Sheriff orders relief, the Inspector usually meets the

obligation by offering indoor relief. The applicant may accept indoor relief; but if he refuses, the Inspector has, as before, to decide whether the applicant is likely to come to harm if the refusal of outdoor relief be adhered to.

Appeal to the Local Government Board

Should the Inspector offer only indoor relief and the applicant decline to accept it, the Inspector must then inform him of his right to complain to the Local Government Board on the ground of inadequate relief, and offer the applicant a form of complaint. But, *until the complaint is decided by the Board, the Inspector must furnish the applicant with outdoor relief*[1]; or, as the Board usually phrase it, the Inspector must take care that the applicant does not suffer from want pending the issue of a decision. Here, again, the utmost discretion is called for on the part of the Inspector. It may be that the Board will sustain the Inspector's decision and dismiss the complaint; but the Inspector is no whit better off; for, underlying this is always the implied rule that, if the applicant will not enter the poorhouse, he must not be permitted to starve. So that in every contingency the ultimate responsibility rests on the Inspector.

Aliment

While a Parish Council will, no doubt, be guided largely by the advice of the Inspector of Poor, it must be kept distinctly in mind that the granting of relief is the function of the Parish Council, and that the Inspector is provisionally authorised to act on his own authority only because the Parish Council is not always in session. In large parishes, where a Relief Committee meets several

[1] See Appendix VIII.

times a week, the responsibility of the Inspector in regard to relief is greatly lessened. Subject to the right of a pauper to complain to the Local Government Board on the ground of inadequate relief, the Parish Council is the sole judge of what relief is necessary, and neither the Local Government Board nor the auditor will review their decisions. In their instructions to the auditor the Board say: "The auditor will assume that payment of aliment to a pauper by a Parish Council has been properly made if sufficiently vouched, and if no objection is taken thereto. . . . If the question raised be one which deals with the amount of the aliment, the auditor should not interfere unless the amount is so large as to suggest that it was made in *mala fide*." It is conceivable, however, that if a Parish Council were systematically to grant grossly extravagant aliment, the Board might institute legal proceedings against them, under section 87 of the Poor Law Act, for obstructing the execution of the Poor Law. But this contingency has not arisen and is unlikely to arise.

Aliment must be paid in advance. The intervals between payment should be as short as possible. In country parishes, where the paupers are spread over a large area, it is usual to pay the aliment monthly. In town parishes payment should be made weekly. It is sometimes an advantage to give aliment in goods rather than in money. The Inspector of Poor is responsible for the aliment safely reaching the paupers. Where the paupers live at a distance from his office, it is his duty either to hand the aliment to them personally or to send it. It is competent to send—if the Post Office for payment be not too far from the pauper's house—aliment through the post by means of a Post Office Order. In towns it is customary to ask the paupers to call in person for their aliment at the Inspector's office or to

send a messenger; but the Inspector must see that those who cannot call in person, or cannot conveniently send a messenger, are duly paid. It is usual to furnish each pauper with a paycard containing spaces in which the amount of aliment paid is entered week by week.[1]

How various Classes of Applicants for Relief are to be Treated

To assist Parish Councils and their officials in dealing with applicants, the Local Government Board have issued numerous instructions and recommendations as to the administration of relief. These instructions, which are based on the accumulated experience of years, are generally accepted; but the circumstances of applicants vary so greatly that, in practice, it is impossible to adhere rigidly to any specific system. Such adherence would frequently result in serious injustice being inflicted on individuals. It should be stated, however, that recommendations are rarely issued by the Board unless at the instance of representative Parish Councils and their officials, and only after careful consideration and inquiry; and the Board have frequently suggested a departure from their own general instructions when the special circumstances of a case have made this necessary.

The Board recommend that only indoor relief should be granted to the following classes of applicants:

(*a*) Mothers of illegitimate children;

(*b*) Deserted wives;

(*c*) Wives of persons sentenced to a considerable term of imprisonment;

[1] A Parish Council have no power to assist a pauper to emigrate. Sometimes, however, where it is known that a good home awaits the pauper, this is done by simply paying in advance what is ostensibly only liberal aliment for a month or for a quarter.

(*d*) Generally, all persons of idle, immoral, or dissipated habits.

Some explanation and qualification of each of these categories is necessary:

(*a*) To refuse invariably to grant other than indoor relief to a woman with an illegitimate child would frequently have the effect of ruining one who had been less sinful than sinned against, and whose character, apart from her one fault, is excellent. It frequently happens that a young woman, led astray by deceitful promises, is obliged to apply for parochial relief at the period of her confinement. If sent to a poorhouse and obliged to associate with women of low character, her own character will inevitably suffer, and her chances of regaining her station in life will be lessened if not destroyed. She may drift into the ranks of unfortunate women, or, by having child after child, become a chronic burden to the parish. *The recommendation of the Board should apply only to women of immoral character, who, if given outdoor relief, would almost certainly abuse it.* It is obviously unfair to regard a person as immoral because of one wrong act. The Vice-Regal Commission that recently reported on Poor Law Reform in Ireland take a very sensible view of this matter. Speaking of the unfitness of a workhouse as a refuge or asylum for mothers of illegitimate children, they say (page 41): "In a large number of workhouses can be found in the same ward, young girls awaiting the birth of their first baby, unmarried mothers with an infant or a child under two years of age, and unmarried mothers with two or more illegitimate children. These girls and women are also employed throughout the workhouse as scrubbers, attendants, and laundresses, and continually have opportunities of conversing with one another and with other female inmates. The result is that in most cases the girls lose

a sense of shame, and become more and more degraded. . . . We believe that in the enormous majority of cases a workhouse life debases such girls, who get used to their companions and surroundings; and they leave and return to the workhouse as necessity compels, or as their own blunted feeling inclines them. We therefore think it of the greatest importance that all girls, on the occasion of their first lapse, should, prior to their confinement, be sent to a special institution of one or other of two kinds, (i) owned or managed by religious communities or philanthropic persons; and, (ii) where no such institution already exists, to a disused workhouse, managed by a committee of contributory Boards of Guardians, with a staff of special officers, similar to those in charge of the religious or philanthropic institutions. In this way there would be a hope that the life of the girl would not be wrecked owing to her fall, but that she might, so far as practicable, be restored to the possibility of living a good and useful life. We would rely upon kind and prudent treatment of the girls individually, and to the placing of each of them, so far as possible, in suitable situations after they had spent a year or thereabouts nursing their babies, and after spending such additional time, if any, as the managers of the institution might think necessary for the strengthening of their character. As soon as such a girl-mother could be provided with a situation,—and the sooner the better, we think, after the nursing period,—we suggest that her child should be boarded out, unless it should be kept for medical reasons in the institution a little longer. We would make such institutions open, as regards adults, only to girls after their first fall."

(*b*) The recommendation that only indoor relief should be offered to deserted wives admits also of qualification. Because a woman has had the misfortune to be deserted by her husband, it does not necessarily follow that she is

bad, or merits that her home should be broken up. If a woman, through no fault of her own, has fallen on evil days, the true function of the Poor Law is to raise, rather than further degrade her. All such cases should be considered on their merits. A point specially to be kept in view is the position of the children. It is very undesirable that children should be brought up in a poorhouse. If a mother with children be received into a poorhouse, the children should, as soon as possible, be boarded with respectable guardians. But the mother of the children is the natural, and, as a rule, the best guardian. *If, therefore, the deserted wife is a person to whom the upbringing of her children can safely be entrusted, the Parish Council should certainly grant outdoor relief*, taking measures at the same time, under section 80 of the Poor Law Act, to compel the deserting husband to do his duty. Clearly the Board's recommendation will apply only to women of bad character.

(*c*) Precisely similar considerations affect the case of wives whose husbands are undergoing a term of imprisonment.

(*d*) It is evident that outdoor relief should rarely, if ever, be given to persons of idle, immoral, or dissipated habits. But the question naturally arises as to whether an ordinary poorhouse is the best place for such persons, and whether their reception into a poorhouse is not calculated to destroy its usefulness as a hospital and home for respectable sick, aged, and infirm poor. A separate institution is eminently desirable.

Almshouses or Parish Homes

Many country parishes, finding it difficult to induce infirm paupers to enter the poorhouse, and being doubtful of the expediency of sending them there, have solved the

difficulty by building or acquiring an almshouse or home which is reserved for persons of good character.[1] The building is usually under the charge of a capable woman, who sits rent-free and receives a small allowance for looking after the inmates. These are not usually so infirm as to be incapable of attending in great part to their own needs. They are given ample liberty. Their friends can visit them at any time, and are allowed to bring gifts of food, clothing, tea, or tobacco. Indeed, such charity is usually encouraged rather than otherwise. As a rule, the privilege of living in one of these homes is prized, and the poorhouse is held out as a threat to any who are troublesome. This system usually works exceedingly well, is of great benefit to old people who are reluctant to leave their native village or parish, and is less expensive than the poorhouse.

Boarding-Out of Children

Orphan and deserted children should not be kept in a poorhouse longer than is necessary to enable the Inspector of Poor to find a good guardian for them. When a vicious parent with children becomes chargeable in the poorhouse, the children should, if possible, be boarded out. In such circumstances, considerations as to what may be the future conduct of the mother, in the event of her being relieved of her children, should not weigh with the Parish Council, whose main concern should be to get hold of the children, and give them a chance to grow up decent members of the community. It would be an immense advantage if Parish Councils in Scotland had, as in England, statutory power to separate children from depraved or vicious parents.

[1] The almshouses at Brechin and Peterhead are large, well-conducted institutions, better in all essential respects than many poorhouses, and very economically managed.

The system of boarding-out is now practised on a very extensive scale. Its success depends largely on careful selection of guardians, and upon systematic supervision.[1] Parish Councils who have many children boarded-out have been recommended to employ a Female Inspector. Sometimes the children are visited by a committee of the Parish Council, but this is to be deprecated on the ground of expense.[2] The Board have held that an Inspector of Poor is not bound to supervise, free of charge, children boarded in his parish by another parish. When a number of children are boarded-out in a parish, it would probably be desirable, however, that the Inspector should be asked to exercise a general but unobtrusive supervision over them, and be paid a reasonable fee. The Board require intimation to be made to the Inspector of the parish of residence of all children sent to his parish.

Some of the largest parishes are averse to employing the local Inspector, on the ground that this would brand the children with the stigma of pauperism, which it is specially desired to avoid. There is usually, however, no dubiety in the minds of neighbours as to the *status* of the children. And there are equal, if not graver, objections to the children being visited by a committee of councillors from the parish of settlement.

The system has grown naturally, and is not regulated, or even suggested, by Statute. It is obvious, however, that when accident has pauperised a child, everything should be done to prevent him from growing up with the idea that the community must support him; and it was soon discovered that the best

[1] See Appendix.

[2] It would seem to be quite a proper thing, however, that the Committee should visit representative cases in order to satisfy themselves as to the working of the system.

plan to prevent this was to keep the child out of the poorhouse and to bring him up in a home where he would be exposed to precisely the same influences as non-pauper children. The frugal habits of the Scotch peasantry readily lend themselves to this system. For a small weekly payment (3s. to 4s.) a cottar will receive and bring up a boy or girl along with her own family. In a short time the child becomes identified with the family, and is treated by the foster-parents as one of their own children. Frequently the foster-parents find employment for the children after they leave school, and continue to exercise an affectionate supervision over them. This interest is usually reciprocated by the children. Of course, this is an ideal picture, which is by no means true universally. There are bad guardians whose sole idea in receiving children is to make money out of them. In such cases, the tendency is to neglect, rather than to adopt, the children. But by careful selection of the guardians in the first place, and by frequent inspection, this factor is, as far as possible, eliminated.

It should also be kept in mind that, although boarding-out is a cheap system, any attempt to underpay the guardians is usually reflected in their treatment of the children. In very few cases will affection overcome the natural human reluctance on the part of guardians to give more than they are paid for, and no Parish Council should exact this. A public body should have as keen a sense of honour as a private citizen. In every case the allowance paid to the guardian should be reasonable—not less than, say, 3s. 6d. per week, with boots, clothing, and medical attention in addition. A guardian receiving that sum and allowances, if she does not gain anything, at least does not lose.

Visitation of Paupers

By section 55 of the Poor Law Act, the Inspector of Poor is obliged "to inquire into and make himself acquainted with the particular circumstances of the case of each individual poor person receiving relief from the poor funds, . . . and to visit and inspect personally at least twice in the year, or oftener if required by the Parish Council or Local Government Board, at their places of residence, all the poor persons belonging to the parish or division of the parish in receipt of parochial relief, provided that such poor persons be resident within five miles of any part of such parish." That is to say, the Inspector of Poor, in respect of his salary, must visit every poor person chargeable to the parish residing in the parish or not more than five miles away. The Inspector cannot claim travelling expenses for such visits, unless this is provided for in his agreement with the Parish Council. It is usual, however, for the Parish Council to agree to defray the Inspector's necessary travelling expenses whether within or without the parish. A Parish Council may purchase a bicycle for the Inspector and grant a sum annually for its upkeep, or they may give him an allowance sufficient to enable him to keep a pony and trap. Where there are public coaches, tramcars, or railways in the parish, the Inspector is entitled to use them in his official visiting and to charge the Parish Council with the cost. In some parishes the cost of ferries is an essential charge. An Inspector is not expected to incur, and to charge his Parish Council with, the cost of hires unless in special circumstances, such as in removing a lunatic or sick pauper, or in attending to an urgent case that cannot be reached in any other way. When an Inspector's duties take him from home for a complete day or night, the Parish Council

should grant him a reasonable allowance for subsistence.

Besides those paupers who reside in his parish or within five miles of it, the Inspector is required to make himself familiar with the circumstances of persons chargeable to his parish who reside in other parishes. As a rule, he obtains information and reports from the Inspector of the parish of residence; but, where doubt exists, he should, if possible, visit personally. If the pauper resides in a distant parish, he should take the instructions of the Parish Council before visiting. By judicious planning, a number of visits can usually be made at one time, and thus reduce the cost of travelling. In respect of his salary, the Board require an Inspector to be responsible for all the paupers residing in the parish, even though some of them admittedly belong to other parishes. He must act as the agent for the other parishes, pay aliment, and furnish reports. He will in return receive the same service in regard to his own non-resident poor from the Inspectors of other parishes. The only exception to this rule is in the case of children and lunatics boarded in his parish by another parish. The Board hold that the Inspector and the Medical Officer of the parish of residence are entitled to remuneration for their services on behalf of such cases. The Board have further held that children or lunatics permitted to live with a relative in a parish other than the parish of settlement, although chargeability may have occurred in the parish of residence, are to be regarded as boarded-out, and similarly paid for.

Scottish Paupers in England or Ireland

The Board have held that a Scottish Parish Council are not entitled to grant aliment to a person residing in England or Ireland whose settlement is in their parish.

Refusal of Infirm Paupers to enter the Poorhouse

As indicated, Inspectors of Poor have a very delicate task in dealing with old, infirm people, living in filthy houses and unable to attend to themselves, but who will not enter the poorhouse. Usually the person and clothing of those paupers is so dirty and verminous that respectable neighbours are reluctant to go near them. If, after all persuasion has been tried, they persist in refusing to enter the poorhouse, the Inspector of Poor has no alternative but to grant outdoor relief, and to provide for attendance on them, irrespective of cost. The Inspector must secure that the case is looked after in such a manner that it will constitute neither a scandal in administration nor a danger to public health. The house and the person of the pauper must be cleaned and kept clean, suitable bedding must be provided, and the medical officer must visit and advise regularly; if necessary, a nurse must be engaged. Occasionally, however, the kindly persuasion of friends, and the assurance of good treatment in the poorhouse, has the effect of overcoming the pauper's aversion to removal. The matron of a poorhouse has been known to coax a most obstinate pauper into the poorhouse. Usually a few weeks of kindly treatment in the poorhouse entirely reconcile the pauper to the change.

Vagrant and Casual Sick Poor

This class was at one time more numerous than it now is. Cases of infectious disease (which fell to be dealt with by the Parish Council at the time when the Board of Supervision first issued instructions on this subject) are now taken by the Local Authority. In the towns model lodging-houses absorb a class that formerly were in part relieved by the Inspector of Poor.

Towns in which there are poorhouses generally offer indoor relief to vagrant applicants medically certified to be disabled. In rural parishes and in towns where there is no model lodging-house, it is usually necessary for the Parish Council to make an arrangement in virtue of which a really disabled male or female vagrant may be lodged until such time as he or she can be sent to the poorhouse or dismissed as able-bodied. In most parishes it will be sufficient if the Council arrange with a respectable resident to take in such cases when necessary. It is only in those parishes that are traversed by main routes of travel between industrial centres that these cases are at all exacting.

In strict law, the Inspector of Poor ought to refuse relief to anyone who is not disabled as well as destitute; but, in practice, the rule is rarely adhered to. An Inspector finds it difficult to refuse relief to a tired, hungry, and penniless tramp, although of opinion that the applicant is able-bodied and not entitled to relief. The result is that in parishes much frequented by tramps it has usually been found necessary to provide a shelter in which applicants are lodged evernight and given one or two very simple meals. Next morning they go on their way rejoicing. Of course, this is quite wrong in principle. The correct course would be to bring every applicant before the Medical Officer and to refuse relief to all except those whom he certified to be disabled. But it is sometimes difficult to obtain the services of the Medical Officer at the time when applications by vagrants are made, and it is simpler and cheaper to give the vagrant a bed for the night and a meal next morning. This procedure certainly tends to encourage vagrants to assemble at places where such indulgence is accorded to them; but, until the law provides a really satisfactory and efficient method of dealing with vagrants,

Inspectors of Poor and Parish Councils may be pardoned for their reluctance to adopt a policy that, while it properly withheld relief from the majority, might result in suffering and hardship to a few.

In their rules the Local Government Board make the following observations for the guidance of Inspectors of Poor in dealing with vagrants:

(*a*) "A vagrant is not entitled to relief merely because he is in want of a night's lodging or food.

(*b*) "Upon application for relief being made, the Inspector is not bound, if doubtful of the applicant's claim, to return an answer to it sooner than within twenty-four hours.

(*c*) "If the applicant be an adult male (or an adult female without children) who does not allege any disability, the Inspector can have no difficulty in at once refusing the application. If sickness or other disability be alleged, the Inspector should always cause the applicant to be examined by the Medical Officer before relief is afforded.

(*d*) "*If the applicant be a woman with children, or a person of tender years, inquiries as to disability are, of course, unnecessary, as such applicants, if destitute, are legally entitled to relief.*

(*e*) "In no case of the vagrant class should relief ever be given in money or in any shape convertible into money, if it be possible to avoid it. Where a poorhouse is available, admission to it is always the safest and most expedient mode of relief.

(*f*) "Indiscriminate relief, without inquiry, is not only prejudicial in its effects upon recipients, and unjust towards the ratepayers, but is absolutely illegal."

"Passing-on" of Applicants for Relief

It frequently happens that, owing to defective information, an Inspector of Poor finds it difficult or impossible

to trace the settlement of a vagrant or casual applicant for relief. This fact tends to make an Inspector reluctant to give relief to an unknown person who may become a permanent charge on the parish. The applicant, if admitted to the Roll, remains on it so long as he requires relief, or until his settlement is ascertained. The tracing of such settlement is usually an arduous —sometimes an impossible—task, and in any case is unlikely to add to the reputation of the Inspector. A conscientious Inspector will not permit his judgment to be swayed by such considerations; but there are weak links in the best chain, and now and then an Inspector is tempted to forsake the difficult path of rectitude for that apparently easier path which usually ends in disaster. When an Inspector refuses to grant relief to an applicant who obviously ought to receive it, the applicant must perforce trudge on to another parish and there ask for relief, if he does not break down by the way; or an Inspector, with a specious show of kindness, may suggest to an applicant that he wishes to get to a certain place—usually a convenient town—and obligingly pay his fare thither. If the Inspector who ultimately grants relief hears of this prior dealing, he usually complains to the Local Government Board; and if the charge be brought home, the censure of the Board is very severe. If intention to evade legitimate responsibility were actually proved, it is almost certain that the Board would dismiss or suspend the offending Inspector. And if such a case were taken into Court, it is certain that the Court would determine that the parish in which application was first made was the parish liable. Such action on the part of an Inspector is not only immoral; it is stupid. Because, if every Inspector acted thus, what an Inspector gained by cheating a neighbour he would lose by a neighbour cheating him. This is simple utilitarian morality.

In 1890 a case illustrating the point under consideration came before Sheriff Begg in Renfrewshire. A woman (pregnant, it so chanced) applied for relief in Greenock. The Inspector of Poor of Greenock ascertained that on the preceding night she had slept in Port Glasgow, and straightway told her that she must apply to the Inspector of Poor of Port Glasgow. She did not return to Port Glasgow that night, and next day again applied in Greenock. As before, she was told to go back to Port Glasgow. The Inspector of Greenock afterwards alleged that he did not know that the woman was near confinement, or he would have given relief. Port Glasgow granted relief and sued Greenock. The Sheriff held that the pauper was induced to leave Greenock, and "that an alleged practice in Scotland that a person was not entitled to relief in a parish unless he had slept there on the previous night, was not authorised by the Poor Law Act."

The law, in fact, is that an Inspector of Poor must deal with every application entirely on its merits. The Inspector is to ask himself the question, Is this person entitled to receive relief? and if the answer be in the affirmative, relief must be given without any thought of settlement or of the parish ultimately liable. It is certain that meantime *his* parish is liable.

Removals to England and Ireland

There is no international arrangement whereby an English or Irish pauper residing in Scotland, or a Scottish pauper residing in England or Ireland, can receive aliment from the parish or union in which they have a settlement in their respective countries. If a Scottish person who has acquired no settlement or *status* of irremovability in England becomes chargeable in England, the Board of Guardians are authorised to remove him to Scotland. Similarly, an English or an Irish pauper with

no settlement in Scotland may be removed to England or Ireland. It is unfortunate that there is no international arrangement for the payment of aliment by the parish of settlement, as, notwithstanding the right of appeal conferred by the Poor Law Act of 1898, removal sometimes operates very harshly.

The general power to remove English and Irish paupers from Scotland to their respective countries is given by section 77 of the Act of 1845. The procedure is regulated mainly by the Poor Removal Act of 1862, which applies to both England and Scotland. Ireland possesses no power of removal, probably because it was thought that the Irish guardians would have no use for such power. The procedure is modified by the Poor Law (Scotland) Act of 1898, and may be stated thus:

When an Inspector of Poor is satisfied that an English or an Irish person who has become chargeable to the parish has no settlement in Scotland, he must next ascertain whether the pauper has acquired a *status* of irremovability by residing in Scotland for five years without having received relief or had recourse to common begging, one of these years having been spent in the parish in which he is now chargeable.

If the answer is in the affirmative, the pauper cannot be removed from Scotland, but must be maintained by the parish in which he has become chargeable.

If no *status* of irremovability has been acquired, and if there are no special reasons against removal, the Inspector may petition the Sheriff on the form prescribed by the Local Government Board for a warrant of removal. When a warrant has been granted, he will consider whether either the pauper or the Board of Guardians of the parish or union to which the pauper is to be removed, have a right of appeal to the Local Government Board. Such right will exist if the pauper has at any time lived for

a year before applying for relief in the parish to which he is chargeable.

If there is no right of appeal, the Inspector may at once proceed with the removal. In this case it is necessary to send the Board of Guardians a copy of the warrant of removal only twelve hours before removing the pauper.

If there *is* a right of appeal, the Inspector must (*a*) inform the pauper, and, if desired, furnish him with a form of appeal; (*b*) inform the Board of Guardians of the proposed removal and of their right to appeal; enclose a form of appeal, and write all necessary particulars in the form of intimation of removal prescribed by the Board. If no appeal is lodged within fourteen days, the Inspector of Poor can proceed with the removal. If either the pauper or the Board of Guardians appeal, the Inspector must wait until he receives the decision of the Board.

In a case in which an appeal, though lodged, was incompetent, the Board pointed out that removal would be very inexpedient on the ground of hardship to the pauper, and advised the Parish Council to forego their right of removal. Where—as happens in the majority of cases—there is no right of appeal, the Inspector of Poor need not then supply either the pauper or the Board of Guardians with forms. These forms are prescribed by the Board, and may be obtained through the usual agencies.[1]

Intimation of the proposed removal of a lunatic to Ireland should be sent to the Superintendent of the District Asylum of the place to which the lunatic belongs.[2]

Some English Boards of Guardians have disputed the power of Scottish Parish Councils to remove English-born lunatics from Scotland to England; but the Local

[1] Messrs. Blackwood, publishers, Edinburgh, or through any bookseller.

[2] Information as to the place in England or Ireland to which it is desired to remove a poor person may be obtained by application to the Local Government Board.

Government Board have repeatedly expressed the opinion that removal is competent. In practice, English and Irish lunatics are frequently removed from Scotland to their respective countries.

It is doubtful whether a Scotch-born person, though the dependant of an Englishman or of an Irishman is removable from Scotland. In practice, it is not usual to enforce the law of removal against an Englishman or an Irishman whose wife and children are Scotch-born and live in family with him. If he is living apart from his family, there is not the same objection. Parish Councils also frequently waive the right of removal in cases where, although no settlement has been acquired, the pauper has resided industrially in Scotland for many years.

General

The process of administering relief seems complicated, but in practice the general principles will readily be mastered. An Inspector of Poor should be kindly in his instincts, yet shrewd, and watchful against imposture. If he err, it should be on the side of charity. He should be unremitting in his inquiries into the circumstances of the poor,—not only to prevent them from benefiting unduly at the expense of the rates, but also to prevent suffering from insufficient relief. He should concern himself with every detail of the lives of those who are on the Roll,—their houses, bedding, clothing, and the education and industrial training of their children. He is the legal guardian of every pauper family, and it should be his ambition to make of every such family a group of prosperous industrial units. A man can have no nobler or more inspiring work. The benefit that a good Inspector of Poor confers on a community is inestimable. His life is a ceaseless fight against the forces of sin and greed and selfishness that make for social disintegration.

CHAPTER VI

LUNACY

ALTHOUGH the great majority of lunatics fall to be maintained out of the poor rates, the Parish Council do not administer the Lunacy Acts in the sense that they administer the Poor Law Acts, which are almost wholly under their control. The responsibility for the administration of the Lunacy Acts is shared by the General Board of Lunacy and by District Lunacy Boards. The Inspector of Poor is, however, the local executive officer under the Lunacy Acts.

The principal statutory enactments for the regulation of the care and treatment of lunatics, and for the provision, maintenance, and regulation of lunatic asylums in Scotland, are:

The Lunacy Act of 1857 (20 & 21 Vict. c. 71);

The Lunacy Amendment Act of 1862 (25 & 26 Vict. c. 54);

The Lunacy Amendment Act of 1866 (29 & 30 Vict. c. 51);

The Criminal and Dangerous Lunatics Act of 1871;

The Prisons Act of 1877 (secs. 61 and 62 only);

The Lunacy Districts Act of 1887.

The special provisions of the Army and Navy Acts, dealing with lunatic soldiers and sailors in England, apply also, *mutatis mutandis*, to Scotland.

A "lunatic" is defined by the Statute to be a person

certified by two registered medical practitioners to be a lunatic or insane person, an idiot, or a person of unsound mind. A "pauper lunatic" is a lunatic towards the expense of whose maintenance any allowance or assistance is given by a Parish Council.

Section 59 of the Poor Law Act of 1845 placed the burden of maintaining pauper lunatics on the poor rate, and required Parochial Boards to provide for the safe custody of lunatics in an asylum or other authorised place. Section 112 of the Lunacy Act of 1857 required the Inspector to notify every case within seven days to the Parochial Board, and to the General Board of Lunacy.

Procedure for placing Lunatics in an Asylum

As a rule, cases of supposed lunacy occurring among the poorer classes are intimated to the Inspector of Poor, who requests the Medical Officer of the parish to visit and inquire into the case. If the Medical Officer be of opinion that the fact of lunacy is established and that the patient should be removed to an asylum, he fills up the form of certificate prescribed by the Lunacy Act of 1857. The Inspector of Poor then requests a second doctor to visit; if the second doctor agrees with the view expressed by the first, he grants a similar certificate. The Inspector then fills up the statutory form of petition to the Sheriff for a warrant to detain the lunatic in an asylum.

But frequently the procedure cannot be carried through in this leisurely fashion. It may be difficult to obtain the services of a second Medical Officer, or the condition of the patient may be such as to make immediate removal necessary. In these circumstances, the Medical Officer is authorised to give an Emergency Certificate in addition to the Certificate of Lunacy. On receipt of the Emergency Certificate, the Inspector may

send the lunatic to an asylum without a Sheriff's warrant. A patient can be detained in an asylum for three days on an Emergency Certificate. It is usual for one of the doctors resident at the asylum to grant the second certificate so as to enable the Inspector to present a petition to the Sheriff.

Asylums

(*a*) *Royal or Chartered Asylums* receive wealthy patients at high rates of board; they also administer charitable funds in supporting poor private patients, and in giving suitable poor patients the benefits of association with patients of a higher social class. Of the seven asylums of this kind, three receive only private patients, while four also receive pauper patients under contracts with the District Boards of Lunacy; or, as in the case of the Crichton Royal Institution, under a special provision of the Lunacy Act of 1857 (section 60).

(*b*) *District Asylums* are asylums erected or acquired and managed by District Boards of Lunacy.

(*c*) *Private Asylums*, of which there are three, receive only private patients of the richer class.

(*d*) *Parochial Asylums* are asylums erected and managed by Parish Councils. They are licensed the Board, and are equivalent to a special cl lunatic wards of poorhouses. They receive p suffering from all forms and degrees of insanity. I are admitted to them on the order of the Sher under the same procedure as is followed in the c other asylums. There are now only three pare asylums in Scotland, and the General Board of Lu have no power to license any new establishments of kind.

Places in which Lunatics may be Lodged

Pauper lunatics may also be lodged:

(*a*) *In wards of a poorhouse licensed by the General Board of Lunacy to receive lunatics.*

By sections 3 and 4 of the Lunacy Act of 1862 the General Board of Lunacy may license a poorhouse to receive and detain lunatics who are harmless and incapable of deriving benefit from treatment in an asylum. Before sending a lunatic to a licensed poorhouse, the Inspector of Poor must apply to the Lunacy Board for their sanction. The application must be accompanied by two certificates of insanity from registered medical practitioners. When the person in question is already a certified lunatic, one medical certificate is sufficient.

(*b*) *In an institution for the training of imbecile children.*

Imbecile children, who are capable of deriving benefit from training and treatment in an institution, may, with the sanction of the General Board of Lunacy, be sent to an institution specially designed for such children.

Institutions for imbecile children are licensed by the General Board of Lunacy under the following section (7) of the Lunacy Amendment Act of 1862: "It shall be lawful for the Board to grant licences to any charitable institution established for the care and training of imbecile children, and supported in whole or in part by private subscription, without exacting any licence fee therefor, and such licence may be in the name of the Superintendent of such institution for the time being."

There are two such institutions licensed by the Board in Scotland:

(1) "The Scottish National Institution for the Education of Imbecile Children," at Larbert, Stirlingshire, licensed for 270 children.

(2) "The Baldovan Asylum for the Treatment of Imbecile Children," at Baldovan, near Dundee, licensed for 160 children.

These institutions were founded on, and are maintained from, private endowments, legacies, and subscriptions.

Licences are given by the Board to these institutions under prescribed conditions; in the case of Larbert, these conditions, which deal with the duties of officers, accommodation, and management, have been fully formulated.

The Lunacy Board have fixed 18 as the limit of age beyond which a child cannot be retained. There is no limit with regard to age at reception, and children have been admitted at the age of two years. The mental condition of the children ranges from bright, teachable imbecility to complete idiocy.

The children received are classified into:

(1) Children paid for by relatives or others at rates varying with the accommodation and food provided; (2) children elected by those who subscribe to the funds of the institution, and supported wholly or partially from such subscriptions; (3) pauper children paid for by the parishes which send them.

In the case of every child admitted the Lunacy Board require a statement to be filled up by the person applying for the child's admission, giving the usual particulars as to the child's parentage, previous history, bodily condition, habits, etc. In the case of pauper children, the Board require, in addition, an application for their sanction to be addressed to them, accompanied by two medical certificates, to the effect that the child is "of unsound mind," and "is capable of deriving benefit from training and treatment in the Institution." This is followed by their formal sanction, if no reason exists to the contrary.

Each of the institutions for imbecile children is under the charge of a Board of Directors, a resident Superintendent, and a non-resident Medical Officer (who attends daily).

Parish Councils sending children to be trained in these institutions are entitled to include the cost in their claim upon the Lunacy Grant. This is a highly important provision, because Parish Councils are under no obligation to send imbecile children to such schools, and if the grant were not given, they would probably prefer to dispose of them in some other manner not involving loss of the grant.

(*c*) *In private dwellings.*

By section 95 of the Lunacy Act of 1857, pauper lunatics who do not require asylum treatment, may be kept in private houses with the sanction of the Board of Lunacy.

Pauper Patients in Private Dwellings

Pauper patients are lodged either with relatives or unrelated persons, and either singly or in numbers not exceeding four.

They may either be removed from establishments for the insane to private care, or may be left under such care on becoming chargeable, without having been in an asylum or other establishment. In the former case no medical certificate is required, beyond a statement by the Principal Medical Officer of the establishment on a prescribed form, to enable the Board to judge of the patient's fitness for such a mode of care. In the latter case (the patient not being already certified), two medical certificates and other particulars on prescribed forms must be presented with the application.

The Board may at any time withdraw their sanction to the residence of a pauper lunatic in a private

dwelling, and order removal to an asylum or other establishment, or to another house and guardian.

The form of the medical certificates is, as regards the certification of lunacy, somewhat similar to that prescribed by the Act in the case of patients received into asylums; but the certificate must state, in addition, that the patient "does not require, either for his own welfare or the public safety, to be placed in an asylum, and is a proper person to be detained under care and treatment in a private dwelling"; and further, that "the circumstances in which the patient will be placed are suitable and sufficient for his proper care and treatment."

Pauper lunatics in private dwellings are visited at least once a year by a Commissioner or Deputy Commissioner-in-Lunacy. The visit is repeated when occasion calls for it, and in the case of many aggregations of patients boarded in villages, at least two visits a year are regularly paid. The Inspector of Poor must visit half-yearly, and the Parish Medical Officer quarterly, and these local visits must be recorded in a Visiting Book kept in the patient's house. The reports of the Deputy Commissioners are entered on a Case Record kept for each patient at the office of the Board, on which is recorded all such reports, with minutes in reference to them, a summary of the leading facts of the patient's history, and a *précis* of all correspondence regarding his case. The past history of each patient can thus be at once fully traced.

Discharge of Patients from Asylums

Persons in asylums who, in the opinion of the Medical Officer, have recovered their sanity, are in the position of persons who are not lunatics, and must accordingly be discharged.

The usual authority for the discharge of a pauper

patient is a minute of the Parish Council of the parish of chargeability. If the Medical Superintendent regards the patient as unfit to be discharged, he may appeal to the General Board of Lunacy, who, after investigation, may either authorise continued detention or order discharge.

When an Inspector of Poor, or other person at whose instance a lunatic is detained, delays or refuses to remove him, after due notice and the transmission of a medical certificate that the patient may be liberated without risk, the Superintendent may report the facts to the General Board of Lunacy, who, if satisfied, after inquiry, that the patient may safely be liberated, may order his discharge.

A lunatic, not being a person detained as a dangerous lunatic, may be discharged from an asylum by order of the Sheriff or of the General Board of Lunacy on certificates by two medical men, approved of by the Sheriff or by the Board, that the lunatic has recovered, or has so far recovered that he may be liberated without risk. Any person may initiate procedure under this section, but the General Board of Lunacy would not consent to its being carried out at the public expense in the case of patients who are known to the Commissioners to be beyond doubt unfit for liberation.

An unrecovered patient may be:

(*a*) Transferred from one asylum to another with the sanction of the General Board of Lunacy, obtained by application on a prescribed form, with one medical certificate. Persons detained as "dangerous lunatics" may also be transferred in the same manner, without alteration of the conditions under which they are detained.

(*b*) Liberated on leave for twenty-eight days, or for three months, when under care of an asylum officer or attendant.

(*c*) Liberated on statutory probation, with the sanction of the General Board of Lunacy, for a period which the Board do not allow to exceed one year.

General Observations as to Procedure

The above indicates the manner in which pauper lunatics may be dealt with. It will be observed that a pauper lunatic can be detained nowhere, except in a public lunatic asylum, without the sanction of the General Board of Lunacy. For detention in an asylum it is necessary to obtain a warrant from the Sheriff of the county in which the lunatic resides, or in which he was found, or in which the asylum is situated. In the case of pauper lunatics, this warrant is granted on the petition of the Inspector of Poor.

The entire procedure in regard to lunatics hinges upon certification by two registered medical practitioners. Each certificate narrates the facts indicating insanity, and bears that the medical practitioner has separately examined the lunatic. The action of the Sheriff in granting the warrant is to some extent formal. The Sheriff does not see the lunatic, and merely satisfies himself that the proceedings are regular and that the medical certificates are in the proper form. If a medical practitioner, knowing a person to be sane, grants a certificate of lunacy, he is liable to a penalty of £300, or to imprisonment of one year. If he grants a certificate without having seen and carefully examined the person to whom it relates, he is liable to a penalty of £50. But, in granting a certificate of lunacy, a medical practitioner does not guarantee its absolute accuracy. He simply indicates that, in his opinion (which must be founded upon facts observed by himself), the person in question is a lunatic, and he states the grounds on which his opinion is based

General Board of Lunacy and District Lunacy Boards

No person can be committed as a lunatic until ample precautions have been taken to establish the fact of lunacy. As already stated, to detain a lunatic in an asylum, a Sheriff's warrant is required; the residence or detention of a pauper lunatic in every other place must be sanctioned by the General Board of Lunacy. These measures might be regarded as sufficient to prevent any sane person from being deprived of his liberty on a false plea of insanity. But the Act further requires that the Lunacy Board shall, twice in each year, examine every asylum and place in which lunatics are kept under an order of the Sheriff, and inquire into the condition of the lunatics. In practice, this is interpreted as requiring careful inquiry by the Board and their deputies into the mental condition and treatment of every lunatic in Scotland. This means that annually every lunatic is carefully examined by impartial and critical medical experts with a view to securing (*a*) that no sane person is being detained as a lunatic, and (*b*) that every lunatic is receiving kindly and proper treatment.

For administrative purposes Scotland is at present divided into twenty-seven districts, each containing a District Lunacy Board, the members of which are elected by the County Councils and by the Magistrates of Royal and Parliamentary Burghs, the number of members being fixed by the General Board, and being apportioned by them among the electing bodies in accordance with the valuation of each county or burgh. The General Board of Lunacy are authorised by the Lunacy District (Scotland) Act, 1887, "to alter or vary the said districts," and to make and issue all such regulations as they may consider necessary in regard to the election of

District Boards, the number of members, etc. The Lunacy Board are empowered to require each District Board to take measures for the erection or provision of an asylum for the district, the expense being defrayed out of a public assessment. The duties of District Boards of Lunacy are confined to the purchase of sites and to the erection or acquisition, maintenance, and management of district asylums; or, when the erection of a district asylum is not necessary, to contracting with existing asylums for the reception and maintenance of the pauper lunatics of the district. When a Lunacy District consists of a single parish, the Parish Council is constituted the District Lunacy Board, and performs its special functions. District Lunacy Boards have power to borrow money, on the security of the assessments, for the erection, enlargement, and maintenance of asylums.

Every private asylum or poorhouse in which lunatics are detained must be licensed by the General Board. No lunatic can be boarded in a private dwelling without the sanction of the Board. The Board have issued rules and forms dealing with all possible contingencies; specimen copies may be obtained on application to them, or purchased in quantity through the authorised agencies.[1]

The General Board of Lunacy consists of:

(*a*) A Chairman and two Commissioners appointed by the Crown (unpaid).

(*b*) Two Medical Commissioners appointed by the Crown, each receiving a salary of £1000, rising, after 5 years, to £1200.

The staff consists of:

(*a*) Two Deputy Medical Commissioners, appointed by

[1] Forms, etc., may be obtained from Messrs. T. & A. Constable, printers, 11 Thistle Street, Edinburgh. The Lunacy Board's *Instructions to Inspectors of Poor* may be obtained from Messrs. Oliver & Boyd, publishers, Edinburgh, or through any bookseller.

the Secretary for Scotland, each receiving a salary of £500, rising, after 5 years, to £600 a year;

(*b*) A Secretary appointed by the Crown (salary £800);

(*c*) Clerical staff, etc.

The offices of the Board are at 51 Queen Street, Edinburgh.

The unpaid members of the General Board of Lunacy attend all ordinary Board meetings, and also meetings held locally for investigation into serious occurrences and for the discussion of matters of local importance. They visit with the Medical Commissioners property proposed to be acquired by District Boards as sites for asylums, take part in the examination and approval of plans and estimates, and deal with the various legal questions that come before the Board.

The Medical Commissioners, in addition to participating in the purely administrative work of the Board, have the special duty of visiting and inspecting twice a year all establishments in which insane persons are detained. This visitation is carried out by both Commissioners alternately, one being always in daily attendance at the office of the Board.

The duties of the two Medical Deputy Commissioners (who are not members of the Board) consist mainly in visiting, and in reporting on, all persons of unsound mind under private care who come under the notice of the Board.

Sites, plans, specifications, and estimates for **District Asylums,** and for subsequent additions and alterations, must receive the sanction of the Board.

The Board are empowered to draw up rules and regulations for the management of District Asylums. These rules and regulations require the approval of the Secretary for Scotland.

Powers of Lunacy Board enforced by Application to, and by Consent of, Judicial Authorities

1. In case of any obstruction arising in the execution of the Act, or by the refusal or neglect of County Councils or Magistrates of Burghs to do what is required of them under the Act, the Board may apply by summary petition to the Court of Session (sec. 72, Lunacy Act of 1857).

2. If a District Lunacy Board do not take steps to provide adequate accommodation, the Board may, with the authority of the Secretary for Scotland, apply to the Court of Session, who may appoint a person at whose sight all powers and duties of the District Board may be performed at the expense of the District Board (sec. 9, Lunacy Act of 1862).

3. If any asylum, or house in which a lunatic is kept, is certified by two medical persons to be unsuitable for the confinement of said lunatic, any of the Commissioners may apply to the Sheriff for an order to remove the lunatic to some other asylum or house (sec. 91, Lunacy Act of 1857).

4. If an order or medical certificate on which a patient is received is found to be incorrect or defective, and if there is failure to amend it within twenty-one days, the Board may report such failure to the Sheriff, who, if satisfied that the order or medical certificate is incorrect or defective, may recall the order (sec. 5, Lunacy Act of 1866).

Powers enforced by Suing for Penalties

1. The Board may make rules and regulations in regard to books or minutes to be kept in all asylums or houses, and may enforce them by a penalty, for each

infringement or violation, not exceeding £10 (sec. 9, Lunacy Act of 1857; sec. 20, Lunacy Act of 1866).

2. The Board may, with the concurrence of the Lord Advocate, compel witnesses to appear and to give evidence under a penalty of £30 (sec. 11, Lunacy Act of 1857).

3. The Board can require asylums or houses kept for lunatics to be licensed, and can enforce observance of the law with regard to orders of reception, by a provision which prevents the sending of lunatics to unlicensed houses, or the sending of them to, or keeping them in, any asylum or house without an order, where an order is by the Act required, under a penalty not exceeding £100, or imprisonment for a time not exceeding twelve months (sec. 39, Lunacy Act of 1857).

4. The Board may order the admission of a friend or relative or others to a patient confined in any house or asylum, and enforce their order under a penalty of £20 (sec. 48, Lunacy Act of 1857).

5. Any person wilfully making any false statement or return or report, or a false representation upon any plan or writing, or refusing to give information required of him by the Act, or concealing or refusing to divulge any matter or thing as to which inquiry under the Act shall be made, is liable to a penalty not exceeding £100, or imprisonment for a period not exceeding twelve months (sec. 101, Lunacy Act of 1857).

6. An Inspector of Poor is liable in a penalty of £10 for failure to report cases of pauper lunacy occurring within the parish, as required by the Act (sec. 112, Lunacy Act of 1857).

7. The Board can compel Inspectors of Poor to give particulars of the removal of pauper lunatics from asylums, under a penalty of £10; and can, under a

like penalty, compel the replacement in asylums of pauper lunatics so removed (sec. 10, Lunacy Act of 1866).

8. The Board can compel a person who keeps any lunatic permanently for gain to obtain their sanction or the Sheriff's order, under a penalty of £20 (sec. 13, Lunacy Act of 1866).

9. Any medical person making a false entry of a medical visit under the Board's regulations to a patient resident in a private dwelling under an order of the Sheriff or sanction of the Board, or who makes such entry without having visited the patient within seven days of making it, is liable in a penalty of £10 (sec. 13, Lunacy Act of 1866).

Powers enforced by Withholding or Withdrawing Licence or Sanction

1. The Board may make rules and regulations for the good order and management of private, district, and parochial asylums and lunatic wards of poorhouses, and may "enforce such rules and regulations by forfeiture of licence" (sec. 9, Lunacy Act of 1857; secs. 3, 4, Lunacy Act of 1862).

(The Board also make rules and regulations for District Asylums, but as these are not licensed this means of enforcement is not available in the case of such asylums.)

2. The approval of the Board must be obtained to the plan, specification, estimate, and site of a District Asylum, and they may enforce their views by withholding approval (sec. 52, Lunacy Act of 1857).

3. The Board may withhold their approval of a rate of maintenance for pauper lunatics in District Asylums which they consider improper (sec. 73, Lunacy Act of 1857).

4. Agreements or arrangements for the reception of pauper lunatics into asylums as boarders, can be made only with the sanction of the Board, and private patients cannot be received into District Asylums without their sanction. The Board, by withholding sanction, can prevent the reception of pauper lunatics from alien districts into District Asylums, or the reception into such asylums of lunatics not paupers, and they may withdraw their sanction and require the removal of such patients (sec. 80, Lunacy Act of 1857; sec. 8, Lunacy Act of 1862).

Powers of Direct or Independent Action

1. The Board may transfer a lunatic from a house where he is being improperly treated to another house or to an asylum at the cost of the lunatic's estate, or of the party or parish liable for his maintenance (sec. 42, Lunacy Act of 1857; sec. 18, Lunacy Act of 1866).

2. The Board, on being satisfied by the certificate of two medical persons whom they may think fit to consult, of the recovery or sanity of any person confined as a lunatic, may order his liberation (sec. 92, Lunacy Act of 1857).

3. If a Parish Council neglect to make provision for a pauper lunatic within twenty-one days after being called upon to do so, the Board may themselves take the necessary measures, and may recover expenses from the Parish Council (sec. 18, Lunacy Act of 1862).

Grant in Aid of the Cost of Maintenance of Pauper Lunatics

In addition to the above powers, the Board possess, in their power of giving or withholding the pauper lunatic grant, an effective means of enforcing their views, especially in the case of patients under private

care, where reforms thought by the Board to be necessary have been resisted or inadequately carried out. This grant is a contribution from State funds in repayment of part of the expenditure from the poor rate on pauper lunatics, whether in asylums, in lunatic wards of poorhouses, in training schools for imbecile children, or in private dwellings, all of whom are equally under the Board's jurisdiction and inspection. The grant consists of a fixed sum of £115,500. It is allowed upon all expenditure for maintenance up to or under 8s. a week (all beyond that being excluded), and is allocated at so much per £ in each case. The grant being fixed while the number of pauper lunatics goes on increasing, the contribution per head has gradually decreased from 4s. 7¾d. per week in 1892, when the grant first became fixed, to 3s. 3¾d. in 1905.

It should be stated, however, that the Board seldom, even in cases where they possess compulsory power, require to resort to it, and they never do so until efforts have been made to attain their object otherwise. But the existence of compulsory powers is of great value, as the knowledge that they exist exerts a powerful influence in securing the observance of statutory requirements, and in enabling the Board to carry out necessary improvements and alterations.

Cost of Lunatic Dependants

The cost of maintaining a lunatic dependant or relative is, generally speaking, too great a burden for working people. In ordinary pauperism, the dependant of an able-bodied man cannot obtain relief; but, in the case of lunacy, the Court of Session has seen fit to set aside the law as applied to ordinary parochial relief, and to declare lunacy to be an exceptional disability which

does not pauperise an able-bodied parent or husband whose dependant is supported in an asylum or elsewhere out of the rates (Palmer *v.* Russell and Others, 1871, 10 M. 185; P. L. M. 1871–2, 182). Another reason for this lies in the fact that, frequently, the confinement of a lunatic is a measure undertaken quite as much for the protection of society as in the lunatic's own interest. The only thing that a Parish Council has to consider in granting relief on account of the lunatic wife or child of an able-bodied man, is the ability of the husband or parent to pay all or any part of the lunatic's cost. The Parish Council should ask him to pay just what he can reasonably afford.

Duty of Inspector of Poor

As stated, the Inspector of Poor has no duty, strictly speaking, to take up the case of a lunatic whose financial circumstances are sufficiently good to prevent him from becoming a pauper. But in most parishes the Inspector of Poor is the only public person conversant with the procedure under the Lunacy Acts, and the result is that, in practice, the majority of cases are referred to him by the friends or relatives of the lunatic. It would obviously be dangerous, not only to the lunatic but to the public, if the Inspector were to delay taking action in a case of alleged lunacy until such time as he had satisfied himself as to the resources of the patient. Accordingly, the view generally accepted is that the Inspector should at once investigate every case reported to him; and, if necessary, have the lunatic placed in an asylum. After this has been done, he should, on behalf of the Parish Council, investigate as to the resources of the lunatic, and recover all, or as much as possible, of the expenses incurred. If the case is clearly one of *pauper* lunacy, and if the settlement is in another parish, he should

at once intimate the case to the Inspector of Poor of that parish, and claim to be relieved of liability. Expenses incurred during the year prior to the date of the claim may be recovered from the parish of settlement.

Frequently the lunatic's estate is so small as to be unable to bear the cost of a petition to the Court for the appointment of a *curator bonis*. In that event, the Inspector should explain the position to the relatives (where such exist), and obtain their concurrence to the money being applied towards the repayment of necessary expenses. It is unlikely that a course so obviously equitable will be questioned. If the sum is very small, say, up to £20 or £25, and if there is a chance that the lunatic will regain sanity, it is for consideration by the Parish Council whether they should not forego or postpone their legal claim to the sum. It is not desirable that the patient, on returning from the asylum, should find that his scanty savings are exhausted, as this might induce a return of the lunacy. If the lunatic recovers sufficiently to be able to resume work, the money will help to support him until he obtains a situation.

Duty of Inspectors of Poor in connection with Boarded-out Lunatics

An Inspector of Poor can do a great deal to save expense on lunatics chargeable to his parish in an asylum, by constantly making inquiry as to whether any of these lunatics are suitable for being boarded-out in a private dwelling. In very few asylums is the cost of a pauper lunatic less than ten or twelve shillings per week, while in private dwellings it rarely exceeds half that sum. Of course, the placing of a lunatic in a private dwelling entails on an Inspector the duty of finding a suitable guardian, and of supervising the lunatic generally thereafter so as to ensure his proper treatment. This duty

the Inspector shares with the Medical Officer; but the Inspector has a grievance, in respect that, while the Medical Officer usually gets extra remuneration for his visits to boarded-out lunatics, the Inspector gets none. The saving, however, is so great, that Parish Councils would be well advised in giving Inspectors some pecuniary interest to encourage them to withdraw from the asylum all cases suitable for boarding-out. The Lunacy Commissioners are extremely favourable to the boarding-out system, not only because it is much cheaper, but also because there is reason to think that in a good home a lunatic is happier and more contented than when subjected to the necessary restraint and discipline of an institution. The Lunacy Commissioners are at all times prepared to advise Parish Councils as to which of their cases are suitable for boarding-out.

Dangerous Lunatics

Under section 15 of the Lunacy Act of 1862, when any lunatic has been apprehended charged with assault or other offence inferring danger to the lieges, or when any lunatic is found in a state threatening danger to others, or offensive to public decency, the Procurator-Fiscal, the Inspector of Poor, or any other person, may ask the Sheriff to commit the lunatic to a place of safe custody. The Sheriff is required to inform the Inspector of Poor that such a case has been reported to him, and the Inspector of Poor must, within twenty-four hours, arrange for the safe custody of the lunatic to the satisfaction of the Sheriff. Otherwise the Sheriff may, after inquiry, commit the lunatic to an asylum at the expense of the parish. The parish is liable for the cost of the Sheriff's inquiry, so that it is desirable on every ground that the Inspector should get the case out of the Sheriff's hands at the earliest possible moment. When proceedings

have been initiated by the Procurator-Fiscal, he is entitled to claim his expenses *in so far as these do not relate to the investigation of a criminal charge*, from the Parish Council; and, as a rule, his accounts are very high. The position of the Procurator-Fiscal was thus stated by Sheriff Davidson in the case of the Procurator-Fiscal of Edinburgh *v.* Padon and Greig (1875, 3 P. L. M. 486): "It is said that a Procurator-Fiscal's salary is intended to cover all expenses and outlay. Salary does not cover everything, for a Fiscal has claims both against the Exchequer and the county, though he is on salary. But every Procurator-Fiscal is not on salary, and must be paid for his work by some party in the usual way. Now such an account as this would not be paid by the Exchequer. . . . The 25 & 26 Vict. cap. 54, put the burden of bearing the Procurator-Fiscal's expenses in the matter of dangerous lunatics on the parish, and the Sheriff has no doubt that, under the 15th section of the Act, the Procurator-Fiscal (if he is the party who presents the application to the Sheriff) is entitled to receive from the parish all the necessary expenses incurred by him. Such is the clear intention and express provision of the statute."

The Procurator-Fiscal has been instructed by the Crown Office to report cases arising under section 15 of the Lunacy Act of 1862 at once to the Inspector of Poor; so that, in ordinary circumstances, the latter will be to blame if delay on his part to make an arrangement satisfactory to the Sheriff, gives the Procurator-Fiscal an opportunity of profiting at the expense of the parish. The parish in which the lunatic was apprehended or found is primarily liable for the expenses incurred; but the Parish Council may claim repayment out of the lunatic's estate, or from any of his relatives legally liable, or from the parish of settlement.

In order to make the position of the Procurator-Fiscal perfectly clear, it should be stated that he necessarily intervenes in all cases in which there is a criminal charge against a dangerous lunatic. His expenses, so far as they relate to the criminal charge, are covered by his salary or claimed in his account of expenses against the Exchequer. But whenever the criminal proceedings terminate, it would appear to be the duty of the Procurator-Fiscal to hand the case over at once to the Inspector, as all subsequent expense incurred forms a charge against the parish. Sometimes, however, the Fiscal takes the view that the case is so serious that he cannot intrust it to the Inspector until he has carried it through the further stages. This action, he maintains, is in the public interest. The obvious corollary is that work *necessarily* undertaken by the Fiscal in his official capacity and for the protection of the public, should be covered by his official emoluments. It certainly does not seem fair to charge the Parish Council for work that their own officer could do, but is prevented from doing by the Procurator-Fiscal. This applies with equal, if not greater force, to the intervention of the Procurator-Fiscal in cases of dangerous lunacy in which there is *no* criminal charge. It would prevent feeling and be an economy to the parishes, if work *necessarily* undertaken by the Fiscal in connection with dangerous lunatics were covered by his official salary.

Rating Area over which Cost of Pauper Lunatics is Spread

It has frequently been pointed out that a parish is too small a rating unit to bear the cost of pauper lunacy. In some parishes—usually the poorest—the cost of pauper lunatics paralyses all other administrative

functions. To relieve such parishes it is urgently necessary that there should be either a distribution of the cost of lunacy over a wider area, or a system of Imperial Grants, allowing a higher rate per £ in those parishes where the expenditure is disproportionately high.

CHAPTER VII

MEDICAL RELIEF OF THE POOR

Duties of the Parish Medical Officer

AN elaborate system of Medical Relief has been raised on a very narrow basis. Section 69 of the Poor Law Act requires Parish Councils to provide medicines, medical attendance, nutritious diet, cordials, and clothing for the poor. Experience has shown that the best way to fulfil this obligation is that every parish should appoint one or more salaried Medical Officers whose duty it is to attend to the poor. This has been largely promoted by the institution of the Medical Relief Grant, which makes the appointment of a medical officer a condition of participation. The Board of Supervision framed rules for the Medical Officer, which may be thus summarised:

1. The Medical Officer shall attend the sick poor at their homes.

2. He must inform the Inspector of Poor of the nature and extent of the medical relief required by a sick pauper. (On the Inspector and on the Parish Council is placed the responsibility of deciding whether, and to what extent, the Medical Officer's recommendations shall be carried out. In practice, it is very unusual for either the Parish Council or the Inspector of Poor to refuse to give what the Medical Officer recommends.)

3. The Medical Officer is to endeavour to arrange for

the sending of medicines to the poor; but, when necessary, the Inspector of Poor provides a messenger.

4. When practicable, the Medical Officer names a substitute to act for him in absence.

5. In a parish that participates in the Medical Relief Grant, the Board reserve the power to dismiss a Medical Officer who is unfit or incompetent.

6. The Board's sanction must be obtained to the Medical Officer's salary, and the salary may not be altered without the Board's consent.

7. Vacancies must be advertised for three consecutive weeks in a newspaper circulating within the county.

8. The Medical Officer must grant a certificate or written report regarding any poor person when so required by the Inspector of Poor, the Parish Council, or the Board.

Medical Examination of Applicants for Relief

Since the decision of the House of Lords that an able-bodied person is not entitled to parochial relief, the Medical Officer has become an essential part of the Poor Law system, as, in the majority of cases, it requires a medical man to decide whether an applicant is or is not able-bodied. As a rule, the Medical Officer examines and certifies applicants for relief—a proceeding that the Statute never contemplated; otherwise, the position of the Medical Officer would almost certainly have been put on the same basis as that of an Inspector of Poor. That is, his appointment would have been made obligatory, and his duties and tenure of office defined by the Poor Law Act.

Medical Officer's Tenure of Office

At present, the Parish Medical Officer, although an essential official, has neither a statutory appointment nor

security of tenure. The post is created by, and is held at the pleasure of, the Parish Council, subject to any special conditions contained in the Medical Officer's agreement with the Parish Council. Parish Councils wishing to attract a good type of Medical Officer should insert in the agreement a clause binding themselves not to dismiss the Medical Officer without the consent of the Local Government Board. In this way Medical Officers would have confidence that they would not be subjected to unjust or capricious dismissal, while Parish Councils would have the knowledge that the Board would at once remove from office a medical man who had proved himself to be inefficient or who neglected his duties.

In Highland and in Insular parishes the doctor who holds the official appointment is usually the only medical practitioner in the district, and has thus a virtual monopoly of the private practice. Opposition is really impossible, as, but for the parish appointment, a medical man could not gain a living in many of the remoter parishes.

Allocation of Medical Officer's Duties

The Medical Officer has usually three official duties:

1. He is *Medical Officer under the Poor Law.*

The salary paid to him in this capacity is approved by the Board and ranks as a claim against the Medical Relief Grant. For this salary the Medical Officer examines and certifies applicants for parochial relief, and gives all necessary medical attention to the sick poor. It is his duty to visit a pauper at the request of the Inspector of Poor, the Parish Council, or a member of the Parish Council, and upon the production of a pay-ticket by a pauper. If the Medical Officer knows the applicant to be a pauper, he will not insist upon the production of a pay-ticket. Generally, the Medical

Officer, without special direction, visits and prescribes for any pauper that he knows to be ailing. All cases—the most difficult equally with the most trivial—are covered by his salary. He can claim no special fee for accouchements or for surgical operations. But if a second doctor should be necessary at an operation, the Parish Council must pay his fee. The Parish Council may, however, give the Medical Officer an honorarium for any specially difficult or arduous piece of work. The Medical Officer is not entitled to make any fine distinctions as to whether a person whom he is asked to attend is, or is not, a pauper. The Inspector of Poor is the judge of that; and Medical Relief, equally with aliment in money or in goods, constitutes pauperism. In respect of his salary, the Medical Officer must attend every sick pauper residing in the parish, although the pauper's settlement may be in another parish. It is one of the conditions of participation in the Medical Relief Grant that a parish shall afford, free of cost, medical relief to any other-parish paupers resident in its area. In return, the parish receives the same privilege from other parishes in respect of its own non-resident poor. It has been held, however, that medicines and medical appliances and special outlays, such as the attendance (just referred to) of a second surgeon at an operation, or the provision of a nurse, may properly be charged against the parish of settlement. When medicines are included in a Medical Officer's salary, or when he receives an allowance for medicines, any outlay on medicines recovered from another parish should be paid to the Medical Officer. The Medical Officer is entitled to charge the parish of settlement for attendance on children or lunatics boarded-out in his parish.

2. *The Medical Officer has certain statutory duties to perform under the Lunacy Acts.*

He must visit and examine, and, when necessary, certify every case of alleged lunacy occurring in the parish. He must visit the lunatics residing in the parish once in each quarter, and enter the result of his inspection in a book provided for that purpose and kept by the lunatic's guardian. For this work the Parish Council may pay him either by a fixed salary or by fees. It is usual to pay 5s. for each quarterly visit, and £1, 1s. for each certificate of lunacy. It should be stated in the Medical Officer's agreement whether the cost of conveyance is to be included in his salary. It is essential that the remuneration for work under the Lunacy Acts be fixed quite separate from that under the Poor Law, which alone may be claimed against the Medical Relief Grant. Lunacy work performed for another parish may be charged against that other parish. It is the duty of the Inspector of Poor to recover the Medical Officer's fee from the parish of settlement.

3. *The Medical Officer is usually also appointed Vaccinator to the parish.*

Under the Vaccination Act, the Parish Council are obliged to appoint a medical practitioner to vaccinate the children of defaulters. The parish must within forty-eight hours after the appointment of a Vaccinator notify his name to the Local Government Board, the Registrar-General, and the Registrar or Registrars for the district in which the parish is situated. The Medical Officer is invariably appointed Vaccinator for his parish. In this capacity his duty is to visit each of the defaulters and endeavour to persuade them to permit their children to be vaccinated. If he does so persuade them, and if the vaccination proves successful, he grants a certificate of successful vaccination. He must satisfy himself by personal inspection that vaccination has been successful. If the child is insusceptible, he grants a certificate of

insusceptibility. If the health of the child precludes vaccination, he grants a certificate of postponement, which must be renewed every two months. He reports the result of his visits to the Parish Council, who decide whether they shall prosecute those who refuse to allow their children to be vaccinated. The Medical Officer is entitled to a fee varying from 1s. 6d. to 2s. 6d. for every child of a defaulter that he successfully vaccinates.[1] The Act prescribes payment by fees; but if, on account of the distances traversed, the Parish Council are of opinion that the statutory fee is inadequate, they may, in addition, grant a salary. This practice, which is to be commended, is a matter for arrangement between the Parish Council and the Vaccinator. Except when returned by the Registrar as defaulters, the children of paupers are vaccinated by the Medical Officer in respect of his Poor Law salary. The fees and salary of the Vaccinator do not rank as a claim against the Medical Relief Grant. The Local Government Board supply glycerinated calf lymph free of charge to Vaccinators on application.

The general work of the Medical Officer is regulated by the Parish Council, and instructions as to individual cases are transmitted to him by the Inspector of Poor. But it is usually left to the good sense of the Medical Officer to arrange his duties so that the best interests of the poor and of the parish as a whole may be secured. The conditions under which the Medical Officer holds his

[1] The Board of Supervision in their rule say: "The Vaccinator shall be entitled to remuneration from the Parochial Board for every person he may have visited for the purpose of vaccination, in pursuance of an order under the 18th section of the Act (whether he has performed vaccination or not), the said remuneration to be according to the scale of allowance fixed by the Parochial Board for successful vaccination." This is equivalent to requiring the Parish Council to pay an additional—and necessary—fee.

appointment being regulated by the terms of his agreement, he should see that these terms are reasonable, and afford him a protection against summary dismissal. In the case of those parishes that participate in the Medical Relief Grant, the Local Government Board reserve a power—rarely exercised—to dismiss the Medical Officer for flagrant misconduct.

It has been held that a Parish Council cannot provide a house for the Medical Officer out of the rates; but, by arrangement with a local proprietor, they should endeavour to secure the possession of a suitable house, as otherwise a good doctor will not be induced to stay with them.

The Medical Officer should receive an annual holiday. With a view to encouraging this, the Local Government Board have agreed to allow Medical Relief Grant on any extra allowance which the Parish Councils of Highland and Insular parishes may agree to give the Medical Officer to enable him to provide a *locum tenens* during his absence. An allowance for a *locum tenens* must always take the form of an increase to the Medical Officer's salary.

Responsibility of the Medical Officer for the Sick Poor

It is the duty of the Medical Officer to report to the Inspector of Poor or to the Parish Council when he finds that the house of a pauper is so defective as to make health impossible, or that the aliment given is too small for the maintenance of health. It is obvious that a bad house and insufficient relief will nullify the most careful medical treatment. The Parish Council should at once take action upon the Medical Officer's recommendations.

Medicines and Medical Appliances

The manner of supplying medicines and medical appliances to the poor varies in different parishes. In small town parishes it is usual for the Parish Council to enter into a contract with a chemist to supply medicines, etc., at a specified rate. In large town parishes the Parish Councils have their own chemists and dispensers. Generally speaking, it is better that the medicines should be supplied by a chemist than by the Medical Officer. From the nature and extent of his business the chemist can generally afford to give the Parish Council better terms than the Medical Officer could possibly give. But in many country parishes medicines are necessarily supplied by the Medical Officer, as there is no chemist. The Parish Council must then to a large extent depend on the Medical Officer's sense of honour, as there can be no efficient check on his charges. It is not desirable, however, that the Parish Council should pay the Medical Officer a fixed sum for medicines, inasmuch as it is only reasonable to suppose that the Medical Officer will endeavour, at least, not to lose by the arrangement, and may stint medicines, etc., until he brings them within the prescribed amount. A better plan would be to establish a depôt of medicines at the Parish Council Office, and to require the Medical Officer to order all stock supplies of medicines through the Inspector of Poor. The accounts should be rendered to the Parish Council, and paid by the Inspector after having been certified as correct by the Medical Officer. The Medical Officer would dispense medicines from the Parish Council Office, and the Inspector would see to the due transmission of the same.

Special Hospital Treatment

If the Medical Officer be of opinion that any pauper is suffering from a disease that requires treatment in a

hospital or special institution, he should inform the Inspector of Poor, whose duty it will be to bring the case before a meeting of the Parish Council or Relief Committee, and to obtain their instructions. Presumably the Parish Council will accede to any reasonable and practicable recommendation of the Medical Officer in regard to sick paupers. The following cases may be cited: (*a*) The sending to a sanatorium of a pauper suffering from phthisis, that, in the opinion of the Medical Officer, may be cured by such treatment; (*b*) The sending of a pauper suffering from any disease that necessitates a surgical operation, or special curative treatment, to a general hospital or infirmary; (*c*) The sending of a deaf and dumb or blind pauper to an institution for education; (*d*) The sending of a blind pauper to an eye hospital for operation or treatment. A proportion of the cost of sick paupers sent to a hospital is allowed to rank as a claim against the Medical Relief Grant.[1]

Nursing

It is frequently necessary to obtain the services of a nurse or attendant for sick poor persons who cannot be, or will not permit themselves to be, removed for treatment from their homes to the poorhouse or to an institution. The Parish Council should be guided by the opinion of

[1] Subscriptions to Hospitals and Infirmaries are allowed against the Medical Relief Grant, and, where patients are maintained in such institutions at a fixed charge per case, the full cost may be claimed.

Where the charge is so much per day or week, the following deductions are made:

Three-fourths of cost is disallowed for cases in—

Edinburgh Royal Infirmary.
Glasgow Royal Infirmary.
Glasgow Eye Infirmary.
Maternity Hospitals.
Sanatoria for Consumptives.

In respect of cases sent to all other Hospitals or Infirmaries, two-thirds of cost is disallowed. These deductions are understood to represent the cost of maintenance, as distinguished from the cost of medical relief.

the Medical Officer in this matter. So far, no parish has engaged a regular staff of nurses for work among the outdoor poor. This would probably have been inevitable but for the fact that nurses belonging to several charitable associations give their services freely to the sick poor. Parish Councils may, and do, subscribe to such associations, but their subscriptions are not equal to the benefit that they receive. Such subscriptions cannot be claimed against the Medical Relief Grant. In many parishes, especially in those poor, sparsely-peopled parishes for which one Medical Officer is not sufficient, it would be of the greatest assistance if the Parish Council were to employ a trained nurse, who would practically fill the place of a second doctor. In the best poorhouses trained sick nursing is now regarded as essential, and there is just as much need for nurses among the outdoor, as there is among the indoor, poor.

Lady Medical Officers

With the approval and encouragement of the Board, lady Medical Officers have been engaged in several parishes. They do their work conscientiously and well, and are less liable than male practitioners to leave a parish because it is poor. Such considerations will, no doubt, commend lady Medical Officers to those Parish Councils that find it difficult to obtain the services of a good male doctor.

General

That the Poor Law medical service has attained its present importance is due to the fact that in many parishes the parochial Medical Officer is the only doctor available, and that, while he is supposed to charge fees to such of his patients as are not on the Poor Roll, poverty is so universal that, practically, he attends all the

parishioners in respect of his official salary. So that medical attendance, like education and religion, is largely a public charge. In the Highland and insular parishes it is necessary that this position should be recognised and regulated by statute. A large part of the Medical Officer's work should be preventive rather than curative. It should be his duty to teach the people how to avoid disease by learning and obeying the laws of health. He might become a valuable educative force. A parish should never grudge to pay for the very best medical service that it can afford. A good Medical Officer is really a profitable investment to a community, for sickness means loss of work and consequent loss of revenue. And a salary for medical work is preferable to fees; for when a medical man is paid by salary it is his interest to keep his people well, and so diminish his labours.

CHAPTER VIII

POORHOUSES

The Regulation of Poorhouses

THE Poor Law Act requires the Parish Council or Councils owning a poorhouse "to frame Rules and Regulations for the management of such poorhouses, and for the discipline and treatment of the inmates thereof." It further provides that these Rules shall not be binding unless they have been approved by the Board.

This implies that the initiative in the framing of rules for the management of poorhouses shall be taken by the parishes. In practice, however, the initiative is usually taken by the Board, who have compiled and published a set of rules which are available as a model. Many poorhouses have accepted the Board's rules without modification, others have modified them (with the consent of the Board) to suit special conditions. Three Poorhouse Hospitals have framed special rules, which have obtained the approval of the Board. From time to time the Board revise and re-issue their model rules.

The scope of the Poorhouse Rules may be briefly stated: (1) They prescribe a House Committee and define its powers and functions; (2) They require the appointment, and define the duties, of the following officers: Governor, Medical Officer, Chaplain, Matron, Superintendent of Nurses, Nurses, Porter, and subordinate

officers; (3) They regulate the admission and discharge, the classification, the bathing, the discipline, and the diet of inmates; (4) They provide for the religious instruction of the inmates. They also deal with numerous minor details of administration.

The rules regard the Governor as responsible for the administration of the poorhouse. The Governor is appointed by, and holds office at, the pleasure of the House Committee. This applies to all the officials, except the Medical Officer, who is appointed by the House Committee, but cannot be dismissed without the consent of the Local Government Board. Every official, except the Medical Officer, is responsible to the Governor, and must obey his instructions. The Medical Officer is responsible to the House Committee and to the Local Government Board for the treatment of the sick,—any instruction given by him for the treatment of a sick inmate must be carried out. When the Medical Officer resides in the poorhouse, he generally advises the House Committee in the appointment and dismissal of persons employed in the sick wards. It is not desirable that the Matron should be the Governor's wife. The Matron should be a trained nurse and capable of supervising the sick wards as well as the general domestic economy of the poorhouse. This applies specially to the smaller poorhouses.

So far as possible, the inmates should be profitably employed, but should not be required to assist in nursing the sick or in preparing food. It is not desirable that their labour should compete with industries carried on by the poorer classes of ratepayers.

The House Committee, with the advice of the Medical Officer, fix the diet[1] of the various classes of inmates. The Board approve any reasonable and adequate scale of

[1] See Appendix I.

diet submitted to them. They refuse, however, to sanction "treats," on the ground that a "treat" is not "needful sustentation," as defined by the Act of 1579. The diet of the sick is wholly in the discretion of the Medical Officer.[1]

All plans involving the structural alteration of a poorhouse require to be submitted to the Board for approval. The Board fix the number of beds for which a poorhouse may be licensed.

A parish may own a poorhouse, or be a member of a combination, or have boarding rights in a poorhouse in terms of section 65 of the Poor Law Act.

The House Committee

The poorhouse is managed by a Committee selected from the Parish Council or Councils owning the poorhouse. In a Combination Poorhouse the House Committee have full power to deal with everything except borrowing and altering the contract of agreement; but, in a single-parish poorhouse, the power of the House Committee, being derived directly from the Parish Council, is just what the Parish Council choose to delegate. The power of the House Committee must be sufficient to enable them to control the poorhouse. But it is not unusual for a Parish Council that owns a poorhouse to reserve the right to make important appointments, and to deal with all improvements that involve the outlay of large sums of money. A House Committee may co-opt visiting members who are not Parish Councillors.

The House Committee, although an essential body, has no foundation in statute. It is a creation of expediency and of the Board's Poorhouse Rules.

In Combinations, the contract of agreement provides for the appointment of a House Committee, and for the

[1] See Appendix II.

representation of each parish thereon, according to its interest in the poorhouse. It is a truism to say that, for an institution such as a poorhouse, a House Committee or separate Board of Management is an absolute necessity. Its creation illustrates the extent to which an administrative Board may be obliged to supplement the defects of legislation.

Contract of Agreement

Every Combination Poorhouse is based on a contract of agreement signed by the combining parishes. The contract defines the constitution and powers of the House Committee, and the number of members to be appointed by each parish. It also states the liability of each of the parishes in the combination for the cost of erecting and maintaining the poorhouse, and the number of beds to which each parish is entitled. Sometimes the agreement embraces matters that are quite outwith its scope, such as the number and kind of officials who are to be appointed and the manner of their appointment. These are matters that should be left to the House Committee, as the practice will necessarily vary with the needs and growth of the combination.

Usually, the original cost of a poorhouse is borne by each of the parishes in the combination according to a scale based on the population and pauperism of the parish. That is, each parish takes a number of beds proportionate to these figures. In maintaining the poorhouse, each parish pays for upkeep of the buildings and management according to the number of beds that it owns, and for maintenance (*i.e.* food, clothing, etc., of inmates) acccording to the number of inmates that it sends to the poorhouse. Upkeep of buildings and management include such charges as loans, feu duties, cost of repairs, alterations, extensions, furniture, rates and taxes,

and salaries of officials. Maintenance includes food, clothing, blankets, linen, medicines, medical appliances, etc. Sometimes it happens that, owing to decrease of population, a parish finds itself burdened with beds for which it has no use, and a proportionately heavy share of the cost of management. Take the case of a parish (by no means hypothetical) that, when the Poorhouse Combination was formed, agreed to take twenty beds. Probably each of these beds cost some £150, or in all £3000. Thereafter the parish must—year by year—continue to pay its share of management and upkeep based on this number of beds, though perhaps it may never have more than four or five paupers in the poorhouse. In these circumstances, it would actually pay the parish owning the beds to give another parish a handsome sum to take them off its hands. There are several ways in which this obvious injustice might be, and sometimes is, remedied. If other parishes in the combination consistently require more beds than they have purchased, they may buy beds from the parish that has too many. Or, if they will not buy beds, then for each bed that they use in excess of their share, they should be charged a rent corresponding to interest on the price of a bed, and to the cost of management and upkeep per bed. This rent, and the retaining fee paid by boarding parishes or by parishes using an excess number of beds, should be credited to the account of the parishes that find their holding too large and are unable to use all their beds. Otherwise, the possession of beds in a poorhouse may constitute not an asset, but a burden; and what, under a proper system of accounting, ought to be a good property becomes an intolerable drain.

Of course, as the number of shares held by each parish is fixed by the contract of agreement, no alteration can be made without the consent of all the parishes, and

mutual jealousy frequently operates as a barrier to an equitable readjustment of the financial basis of the combination. A parish cannot withdraw from a combination without the consent of the other members and of the Local Government Board.

Borrowing

A House Committee cannot borrow money for the erection, extension, or improvement of a poorhouse. In borrowing, a House Committee can act only as the agent of the parishes. When it is necessary to borrow for a Combination Poorhouse, each parish must separately resolve to borrow its proportion of the loan to be obtained. The fact that a majority of a House Committee have resolved to borrow is not binding upon any single parish in the combination, even though the contract of agreement should specially provide for this. In terms of section 33 of the Local Government Act of 1894, a Parish Council cannot delegate to a committee any power of raising money by loan, so that any clause to the contrary in a contract of agreement is *ultra vires.*

By section 62 of the Poor Law Act, when the Parish Council of a parish with a population under 100,000 has incurred debt for a poorhouse, it cannot borrow again until all the debt has been paid. A Parish Council cannot borrow a larger sum than three times the assessment for the preceding year. But, under section 1 of the Poor Law Act of 1886, if the population of a parish exceeds 100,000, the Parish Council can keep on borrowing, notwithstanding a balance of debt unpaid, until it has borrowed the maximum that it is entitled to borrow, namely, three times the assessment for the preceding year. Provided that its total debt never exceeds that sum, it can borrow at any time. Whenever money is borrowed, an arrangement must be made to repay the

loan by instalments of principal and interest extending over a period not longer than thirty years. Before a Parish Council with a population of over 100,000 can borrow under the Act of 1886, it must procure from the Local Government Board a certificate that the assessments have been duly charged with the proper proportion of principal and interest of any sum previously borrowed. The provision preventing a Parish Council with a population under 100,000 from borrowing until all its debt is paid, frequently operates very harshly, and prevents necessary reforms and improvements from being made. Only a *parish* can avail itself of the concession granted by the Act of 1886. A poorhouse combination, although its population exceed 100,000, is not entitled to avail itself of the extended powers conveyed by that Act.

Boarding in a Poorhouse

There are very few parishes that do not possess a right to send paupers to a poorhouse. If a parish does not own a poorhouse, and is not a member of a combination, it may obtain a right, under section 65 of the Poor Law Act, to board in any convenient poorhouse in which there are vacant beds. Usually the House Committee of a poorhouse with vacant beds is only too pleased to concede the privilege, as the cost of management and upkeep is practically the same whether the house is fully or only partially occupied; and, of course, with a large number of inmates, the cost per head is sensibly less. Everything received in respect of management or rent is practically profit. In framing a rate for boarders, two things are generally considered: (1) The interest that the boarding parish would have to pay if it borrowed money sufficient to buy a bed in the poorhouse, and (2) the current expenditure per head. Assuming that, on an average, a bed in a poorhouse is worth, say, £20,

if a Parish Council purchase a bed it would lose interest on £80 yearly. That might be reckoned at, say, £2, 10s. or £3. Consequently, in addition to the actual cost of an inmate sent to the poorhouse, a sum corresponding to interest on the value of a bed should be charged. This sum is the rent of each bed hired by the Parish Council, and falls to be paid whether the bed be occupied or not. Usually a charge of 1s. or 1s. 3d. per week is regarded as sufficient for bed rent, while the cost of maintenance, apart from that, may run from 4s. per week in the case of ordinary inmates to from 6s. to 15s. per week in the case of sick.

A Parish Council must obtain the sanction of the Local Government Board to the rates to be charged before it can board paupers in a poorhouse. This is held not to apply to a case in which a pauper belonging to another parish is casually relieved in the poorhouse of the parish of chargeability. But in such circumstances the relieving parish should not make a profit out of the parish of chargeability.

Appointments

The appointment of officials at a poorhouse is a function of the House Committee, save in those rare cases where the Parish Council of a single-parish poorhouse have reserved the right to make the more important appointments. In Combination Poorhouses all appointments are necessarily made by the House Committee. The officials that *must* be appointed are: (1) a Governor, (2) a Medical Officer, (3) a Matron, (4) a Chaplain, (5) a Porter. The Local Government Board have sanctioned the appointment of a Medical Superintendent combining the offices of Governor and Medical Officer. In addition, it is usually necessary to employ trained sick nurses, a cook, and several domestic servants. The larger poor-

houses have a clerical staff and a number of special officers, such as labour-master, engineer, gardener, etc. In most poorhouses of any size it has been found that, if the Governor is to have sufficient time to attend to the duties of administration, clerical assistance is necessary. The duties of the various officials are specified in the Rules issued by the Board.

House Committees are advised by the Local Government Board to insure against the liability which they incur for their employees under the Workmen's Compensation Act, 1906.

Nurses

Trained sick nursing is now regarded as indispensable in every well-managed poorhouse. Every poorhouse must be prepared to receive such cases as cancer, phthisis, pneumonia, syphilis, itch, etc.; and it is obvious that, without skilled nursing, it is impossible to deal effectively with such diseases. The conditions of a nurse's employment in a poorhouse should be such as will attract good candidates. A trained nurse passes through an arduous apprenticeship, involving severe study and discipline. In return for this she expects to have a reasonably good apartment, with access to bath and lavatory other than those used by the inmates; not more than sixty hours of duty per week; and an annual holiday of not less than three weeks. It is surprising to find that some House Committees fall short of this modest ideal; that nurses are crowded together in ill-furnished rooms; that they are afforded neither time nor facility for recreation or study; and that their working week frequently extends to seventy hours. Good nurses naturally avoid poorhouses where such a state of matters is permitted to exist, and in this way the character of the nursing service is lowered. It is to be noted, how-

ever, that in the best poorhouses excellent provision has been made for nurses. The larger poorhouses, with a resident medical staff, train their own nurses. The Local Government Board have recently issued a syllabus for the training of nurses, and have offered to grant a special certificate of efficiency to those nurses who pass an examination held at their instance at stated intervals. Government, by means of the Grant in Aid of Medical Relief,[1] pays one-half of the salary of each nurse and an allowance of 3s. per week for rations. No grant is given for probationer nurses, nor for any nurse whose name is not on the Board's register. When the Matron of a poorhouse is a trained nurse, a grant is given equal to one-fourth of her salary.

Children in Poorhouses

It should always be kept in view that life in an institution has a distinctly bad effect on children, as it tends to unfit them for taking a part in the somewhat rough scramble for existence that is the heritage of the industrial classes of this country. A Parish Council should not send a mother with young children to the poorhouse without the most serious consideration. The refusal of relatives to contribute towards the support of the family should not, for instance, be regarded as a sufficient reason for refusing outdoor relief to a widow with young children; nor should a single lapse from virtue on the part of a mother be taken as a reason for destroying her home, unless it is evident that she is a bad character and incapable of decently bringing up her children. If the mother is a fit person to bring up her children, it is difficult to imagine reasons sufficiently grave to justify the withdrawal of outdoor relief.

[1] See Appendix V.

TREATMENT OF MENTAL DISEASES IN POORHOUSES

(*a*) Wards for Harmless Lunatics

By section 4 of the Lunacy (Scotland) Act of 1862, pauper lunatics who are not dangerous, and who do not require curative treatment in an asylum, may, with the sanction of the General Board of Lunacy, be detained in wards of a poorhouse specially licensed by the Board for that purpose (see p. 80). The conditions that require to be fulfilled to enable the Lunacy Board to license a poorhouse for the reception of lunatics may be stated as follows:

(*a*) The wards and airing grounds must be entirely separate from those provided for ordinary paupers. The furniture must be good and sufficient. Where the number of lunatics exceeds sixty, they must be lodged in a detached building. No alterations are to be made unless the plans have been approved by the General Board of Lunacy.

(*b*) In a dormitory, at least 60 square feet must be allowed for each bed. Dayrooms must give 30 square feet per inmate. Baths, water-closets, and lavatories should be provided in the ratio of, say, one bath, one water-closet, and three lavatory basins for every twenty lunatics.

(*c*) The diet must be in accordance with the scale framed by the Lunacy Board.

(*d*) Attendants must be provided to the satisfaction of the Board.

Admission

Patients are admitted to lunatic wards of poorhouses upon papers in a prescribed form, consisting of an

Application by the Inspector of Poor, a Statement by the Inspector of Poor of facts similar to those given in the case of patients admitted to asylums, a Statement by the Medical Officer of the Parish or Establishment from which the patient has been removed, giving such particulars with regard to the patient's mental and bodily state, conduct, and habits as throw light upon the question of his fitness for such wards, and a Medical Certificate, which must certify that the patient is "of unsound mind," and, further, that he "is not dangerous, is incapable of deriving benefit from treatment in an asylum, has no habits or infirmities which render care difficult, and is in a sufficiently good state of bodily health to be removed to the Lunatic Wards" named in the Application.

If the General Board of Lunacy are satisfied with the facts stated in the papers laid before them, sanction to the patient's reception is appended upon a simple form.

If, when removal to such wards is proposed, the patient is not already a certified lunatic, a second Medical Certificate is required. The great majority of the patients received into such wards are, however, removed to them from asylums, or from private houses where they have been residing as certified patients under sanction of the Board.

Discharge

Pauper lunatics in such wards are discharged with the same formalities as are applicable to asylums (see p. 83).

(*b*) Observation Wards

The need for a special form of hospital ward outside of an asylum capable of dealing with cases of mental disease

has frequently been felt by the larger parishes. When a case of alleged lunacy cannot be certified for lack of sufficient information, it is necessary to detain and observe such case until accurate diagnosis becomes possible. Without an Observation Ward, it is evident that medical men will incline to protect themselves, and to avoid the risk of accident, by sending all such cases to a lunatic asylum. The idea of these wards has broadened on the lines of a curative institution for cases of mental disease in which the symptoms are not violent and cure seems probable within a short period. It is quite impossible that two medical men will always coincide in their diagnosis of a case of alleged lunacy. While one doctor is certain that lunacy is present and is likely to continue for a considerable period, another may take a more hopeful view. The medical man accustomed to observe and to treat such cases in a hospital ward is better qualified to form an accurate opinion than the man who sees them only in their ordinary environment. Accordingly, the Local Government Board (with the approval of the General Board of Lunacy) have authorised the detention of such cases in an Observation Ward for a period of six weeks.

Another function of these wards was thus stated by a witness before a Departmental Committee of the Local Government Board: "It is my experience that once a person has been in an asylum, people have a strong objection to employing him or her afterwards. I have seen that occurring in the cases of females who have been out of an asylum for some time and who were quite well; they get into service, but the moment their employer finds out about the asylum they are dismissed."[1]

[1] Mr. M. M'Innes, Inspector of Poor, Dumfries, Minute of Evidence taken before the Departmental Committee (3321).

Regulation of Wards

In order to obtain the sanction of the Local Government Board, Observation Wards must conform to the following rules:

1. They are to be separated from the other wards of the poorhouse, and should resemble ordinary hospital wards modified to suit their special purpose. They should form part of, or be as near as possible to, the poorhouse hospital.

2. At least 1000 cubic feet of air space and 100 square feet of floor space should be allowed per bed. There should be small single rooms in proximity to the main ward for those patients whom for any reason it is desirable to place by themselves. Where a comparatively large number of patients are received, the wards should be so arranged as to admit of the inmates being grouped in accordance with their mental condition.

3. Such wards should provide accommodation for not fewer than four patients of each sex.

4. No patient shall remain in an observation ward for a longer period than six weeks. If in any exceptional case the Medical Officer is of opinion that retention for a further period is necessary or advisable, he shall transmit to the Local Government Board a certificate to that effect, stating the grounds of his opinion and the period of further retention required.

5. Where the Observation Wards contain sixteen beds or upwards, there must be, at least, one Medical Officer resident in the poorhouse.

6. In the larger wards day nurses shall be provided in the proportion of at least one nurse to eight patients. In wards with not more than ten patients of either sex, one nurse to ten patients may be permitted, provided

that the duties of the nurses are efficiently supervised by a responsible official, and that extra nursing assistance shall always be available.

7. Night nurses shall be in the proportion of one nurse to ten or any smaller number of patients.

8. Where female nurses are employed for the nursing of male patients, either by day or by night, a male official should at all times be available in case of emergency.

Cases suitable for Observation Wards

The Local Government Board have issued the following memorandum as to the cases suitable for treatment in an Observation Ward:

The Board feel that a wide discretion must be left to the Medical Officers in charge of these wards, and to the Medical Officers who sign the certificates of admission. No doubt there will sometimes be diversity of opinion as to whether a patient sent to an Observation Ward should not more properly have been sent to an asylum as a certified lunatic. In such cases, the considerations to be kept chiefly in mind are the immediate cause, and the probable duration, of the mental disturbance. As a general rule, it is not intended that cases should be kept in an Observation Ward longer than six weeks. It is difficult to limit or to specify exactly the type of case for which Observation Wards are suitable, but the following may be mentioned:

(*a*) Where the mental symptoms are a sequel to, or an accompaniment of, diseases that, in ordinary circumstances, terminate within a definite time. The point specially to be kept in view here is the likelihood of the speedy disappearance of the symptoms of mental disturbance.

(*b*) *Where, although the mental symptoms would seem*

to indicate lunacy, the Medical Officer is clearly of opinion that such symptoms are likely to be of short duration.

(*c*) Where the patient's mental state gives rise to apprehension, but where the symptoms are not sufficiently marked to enable the certifying physician to affirm either sanity or insanity.

(*d*) Where the mental disorder is associated with alcoholic abuse.

(*e*) Senile cases where there are temporary symptoms of mental derangement, which make it undesirable that the patients should be treated in a general hospital ward.

(*f*) The presence of the following conditions should be regarded as contra-indicating suitability for such wards:

(1) Homicidal tendencies.
(2) Dangerous violence.
(3) Acute and persistent suicidal tendencies.
(4) Long established insanity or known existence of chronic delusions.

Certifying Medical Officer

In a large parish possessing Observation Wards it is desirable that one Medical Officer should be responsible for all cases of lunacy. If possible, he should also have charge of the patients in the Observation Ward. In one parish the following rules have been adopted with marked success:

1. When requested by the Inspector of Poor or by one of his assistants, the certifying Medical Officer shall visit and inquire into any case of alleged lunacy.

2. If, after examination, the certifying Medical Officer is of opinion that the case is suitable for the Observation Wards, he shall so certify, and inform the Inspector of Poor.

3. If the condition of the patient necessitates

immediate removal to a lunatic asylum, the certifying Medical Officer shall fill up the certificate of lunacy and the emergency certificate, and at once instruct removal.

4. If satisfied that the patient should be sent to the asylum, but that there is no special urgency, the certifying Medical Officer shall fill up the certificate of lunacy and inform the Inspector of Poor, who will then request the district Medical Officer to visit.

5. The certifying Medical Officer will, as a rule, visit every case of alleged lunacy before it is seen by the district Medical Officer; but if he should have occasion to send to the Observation Wards a patient certified insane by a district Medical Officer, he shall inform the district Medical Officer of his reasons for so doing.

Lack of Public Interest in Poorhouses

There is a tendency for poorhouses to be neglected by the general public, and to become in consequence a threadbare and shabby type of institution. Frequently the poorhouse is occupied only partially, and presents a desolate appearance to the casual visitor. As the management charges are practically the same whether there are few or many inmates, the cost per inmate in a poorhouse of this type is relatively high. One result of the extra cost is that parishes become unwilling to send to the poorhouse even those persons that should be sent there. It is then alleged that no one can be induced to enter the poorhouse. As a rule, there is something wrong with the management of a poorhouse that no one will enter. In an average combination of parishes, there is usually a sufficient number of sick and infirm paupers to use the poorhouse profitably, if it were suitable for their reception. Irrational opposition tends to vanish when the poorhouse is made reasonably com-

fortable, and when the sick and infirm are given such treatment as they would receive in a general hospital or infirmary. The ideal is, of course, that the poorhouses should be differentiated: some set apart for the sick, others for the infirm and aged; and the minority for the idle and vicious, whom it is desired to reform. For the last it would be necessary to obtain legislation, authorising a Sheriff or Magistrate to grant an order for compulsorily sending to, and detaining in, the Poorhouse the type of inmate referred to.

CHAPTER IX

RECOURSE

By section 71 of the Poor Law Act, "where in any case relief shall be afforded to a poor person found destitute in a parish or combination, it shall be lawful for the Parish Council of such parish or combination to recover the moneys expended on behalf of such poor person from any parish or combination within Scotland to which he may belong, or from his parents or other persons who may be legally bound to maintain him."

(A) *AGAINST OTHER PARISHES*

Statutory Notice in the Case of Ordinary Poor.[1]

By the same section it is provided (1) that a notice of such poor person having become chargeable shall be given to the Inspector of Poor of the parish of settlement; and (2) that only expenses incurred *after* the date of the notice may be recovered. The Statutory Notice is, therefore, an essential preliminary to a claim against another parish. The Inspector of Poor of the relieving parish should make careful inquiry into the history and statements of the pauper before sending a notice of chargeability to what he believes to be the parish of settlement. If it seem probable that the settlement may be in one of two or more parishes, he may send a Statutory

[1] See Appendix VII.

Notice to each of these parishes; but he should not send out notices broadcast on the chance of a parish admitting liability. He should always have a good reason to bring forward in support of his having sent a notice to a particular parish.

That, in the case of ordinary paupers, outlays can be recovered only after the date of the Statutory Notice, is a useful provision, as, in effect, it determines that a parish shall not be liable for relief in the granting of which it had no voice. And what a parish may lose by the operation of this rule against itself it will gain by its operation against other parishes. The large town parishes are an exception, however, as they relieve many more persons belonging to country parishes than country parishes relieve belonging to them. But, in respect of settlements generally, the town parishes have a grievance against the country parishes, as there are many more persons of country-birth who gain a settlement and become chargeable in towns than there are persons of town-birth who gain a settlement and become chargeable in the country. But for this fact, it might be expedient to abolish the law of settlement altogether, and simply enact that each person should remain chargeable to the parish in which he applies for and receives relief.

The Statutory Notice should contain information reasonably sufficient for the identification of the pauper in respect of whom claim is made. It should, if possible, be sufficiently detailed to enable the Inspector of Poor to whom it is sent to determine without delay whether his parish is, or is not, liable. Though not legally necessary, it is also desirable to send with the Statutory Notice a statement of the facts and arguments on which the claim is based. Unless a Parish Council—and they ought not to do so—have given a general authority to their

Inspector to admit claims when convinced that the settlement is in his parish, he is not entitled to admit liability without first submitting the case to his Parish Council and receiving their instructions (Taylor *v.* Strachan and Brown, 1864, 3 M. 34; P. L. M. 1864–5, 122).

Statutory Notice in the Case of Lunatics

"By section 76 of the Lunacy Act of 1857, the party or parish which defrays the expenses attending the taking and sending a pauper lunatic to any district asylum . . . including the sum paid for the order for admission of such lunatic," is entitled to recover the outlays from the parish of settlement.

Outlays may also be recovered from the lunatic's estate or from persons legally liable for his support.

If the parish of a pauper lunatic's settlement cannot be ascertained, and if the lunatic has no means of defraying the expense of his maintenance, nor relatives who can be made liable for the same, "the parish in and from which the lunatic was taken and sent" must defray the initial outlays and the cost of the lunatic's maintenance. But the relieving parish is always entitled to claim against the parish of settlement when that is discovered.

In all such cases a Statutory Notice must be sent to the parish of settlement, whose liability, instead of—as in the case of ordinary poor—beginning from the date of the notice, extends back so as to include the year preceding the date of the notice.

If the Parish Council of the parish of settlement are of opinion that the claim is exorbitant, they may call on the Sheriff of *their* county to certify the amount of expenses that should be paid. The Sheriff's certificate is final and conclusive as to such amount.

General Law as to Recourse against other Parishes

When relief is granted to a destitute and disabled applicant who has no settlement in the parish in which he has become chargeable, it is the Inspector's duty to endeavour to ascertain such particulars of the pauper's birth and residence as will enable a claim to be made against the parish of settlement. The *onus* of proving that another parish is liable rests on the relieving parish (Anderson *v.* Mackenzie and Jack, 1864, 3 M. 253; P. L. M. 1864–5, 276). If the pauper be a native of England or Ireland who has not acquired a settlement in, or a *status* of irremovability from, Scotland, a petition may be presented to the Sheriff for a warrant of removal, subject to the right of appeal to the Local Government Board by the pauper or the Board of Guardians. But, as already stated, there are sometimes cases in which, although removal to England or Ireland is legally competent, it is inexpedient that the power should be exercised. For instance, the pauper may have contracted intimate family relationships in Scotland; or, notwithstanding that he has no present settlement, he may have gained and lost several settlements.

The relieving parish is not required to take into account the fact that a pauper may have relatives legally liable for his support. Relief is granted solely with regard to the applicant's immediate personal needs; and it is the duty of the Inspector of the parish of settlement, after admitting liability, to take such action as may be necessary to recover all, or part of, his outlays from relatives legally liable and able to contribute to the pauper's support.

There are times when a parish must grant relief to a person who is not legally a pauper. It has happened more than once that the wife of an able-bodied tinker has

been confined while she and her husband were passing through a parish. Temporary cessation of itinerant employment deprived the husband of his usual means of earning a livelihood, and he was unable to pay for the medical aid which his wife required. In these circumstances parish relief was an obvious necessity, although legally—as the husband was able-bodied—the parties were not entitled to it. Similarly, it is frequently necessary for a parish to grant medical relief and aliment to the dependants of an able-bodied man who, on account of the sickness of his family, is unable to pursue his usual calling. In cases of this kind, an Inspector of Poor must be guided by considerations of humanity, without too much regard to the legal title of the recipients. He must always keep in mind that one of the main functions of the Poor Law is that the ethical sense of the community shall not be outraged by the subjection of individuals to extreme privation and suffering; and, where the law is defective, his own conscience and sympathies will afford him a safe guide as to the action that he ought to take. But relief granted in such circumstances does not constitute a legal claim against the parish of settlement.

Relief granted to the dependants of an able-bodied man in desertion may be claimed against the parish in which he has meantime acquired a settlement (Wallace *v.* Turnbull, 1872, 10 M. 675; P. L. M. 1871–2, 400).

In the case of Rattray *v.* Coupar Angus (P. L. M. for 1904, p. 14), Sheriff Jameson (now Lord Ardwall) held that a married woman whose husband lived apart from her, but who was able-bodied and easily accessible, was a proper object of parochial relief; and that the relieving parish was entitled to be repaid its advances by the parish of the husband's settlement. Here there was no question of desertion; but the spouses were living apart. The wife applied to the Parish of Rattray for

relief, and received it. Rattray claimed to be repaid by Coupar Angus (the parish of the husband's settlement), who refused, saying in effect: "As this person has an able-bodied husband, she is not entitled to relief. If Rattray chose to give relief, it was at their own risk; and their recourse is not against the parish of settlement, but against the husband. The wife cannot be a pauper while the husband is able-bodied." It must be noted that, in this case, the husband was not in desertion. For certain reasons he and his wife were living apart, but in neighbouring parishes. The Sheriff held that it was the duty of the Inspector to whom application for relief was made to grant relief. "I think," he says, "the pursuers (Rattray) would have been open to serious animadversion on the ground of neglect of duty had they not at once supplied relief to the pauper, as they did." It follows, he adds in effect, that if the applicant was a person entitled to relief, the relieving parish was empowered by section 71 of the Poor Law Act of 1845 to recover from the parish of settlement the moneys expended on her behalf. This decision is a valuable definition of the duty and liability of the relieving parish.

When a parish has admitted liability, it cannot subsequently repudiate the admission because, further facts having come to light, it is seen that the admission was erroneous. If, however, chargeability ceases, and the pauper becomes rehabilitated, a previous erroneous admission is not binding in the event of the pauper again becoming chargeable (Beattie *v.* Arbuckle, 1875, 2 R. 330; P. L. M. 1875, 80). Where liability has been admitted under a current interpretation of the law held by a later and higher authority to be erroneous, the admission cannot be withdrawn when the later reading of the law becomes known (Beith *v.* Kilbirnie, P. L. M. 1904, 112, L. G. B.). The burden of proving that the

settlement is in another parish falls upon the relieving parish, except where the relieving parish has discovered the undoubted parish of birth and calls also the parish of alleged residential settlement. In that case the relieving parish may retire from the field (Anderson *v.* Mackenzie and Jack, 1864, 3 M. 253; P. L. M. 1864–5, 276). Although decisive proof as to the settlement of a pauper may not be furnished for several years, and a claim may meantime be in abeyance, the parish of settlement is liable from the date of the statutory notice (Cathcart *v.* Houston, 1899, 2 F. 335; P. L. M. 1900, 202, 482). If a Parish Council admits liability to one parish, that admission does not bind it in a question arising between it and another parish regarding the same case (Beattie and Muir *v.* Brown, 1883, 11 R. 250; P. L. M. 1884, 199). It is only the aliment granted to a pauper that forms a proper subject of claim against the parish of settlement. Expenses incurred in ascertaining the settlement cannot be recovered (Austin *v.* Shennan, 1874, 2 R. 68; P. L. M. 1874, 634). If it can be shown that an Inspector has acted fraudulently with a view to preventing the acquisition of a settlement in his own parish (*e.g.* granting relief unsolicited when the period of residence necessary for the acquisition of a settlement was nearly completed), he will, if discovered, not only have no claim against the parish of settlement, but will be liable to severe censure, if not dismissal, by the Local Government Board. If an Inspector improperly induces a poor person to leave his parish, and if in consequence that person become chargeable in another parish, the first parish is bound to relieve until the settlement can be ascertained (Brown *v.* Gemmell and Howie, 1851, 13 D. 1009). A fraudulent purpose must, however, be clearly proved (Taylor *v.* Strachan and Brown, 1864, 3 M. 34; P. L. M. 1864–5, 122).

(B) *RECOURSE AGAINST RELATIVES*

As already stated, section 71 of the Poor Law Act of 1845 authorises a Parish Council that grants relief to a pauper to claim repayment, not only from the parish of the pauper's settlement, but also "from his parents or other persons who may be legally bound to maintain him." But the right of a Parish Council to recover aliment from persons legally liable is of little value, unless those persons are possessed of means sufficient to maintain themselves and their indigent relative. That is the exception rather than the rule, but it occurs sufficiently often to make it necessary to state the law on the subject.

A Parish Council may claim past advances, but cannot compel relatives to guarantee the future maintenance of a pauper (Den *v.* Lumsden, 1891, 19 R. 77; P. L. M. 1892, 31).

Only those relatives who are in the direct line of ascent and descent are liable. Collateral relatives are not liable. Action to compel relatives to pay advances granted to a pauper may be taken in either the Sheriff Court or Court of Session; but a Parish Council has no title to sue unless relief has actually been given, and the Court will not compel implement of the obligation to maintain if so doing would obviously have the effect of reducing the relatives to a condition of indigence.

The duty of maintaining falls, first, on descendants in the following order: (1) children, (2) grandchildren, etc.; second, on ascendants: (1) parents, (2) grandparents, etc.

A parent may call on any one of his children to support him (Duncan *v.* Duncan, 1882, 19 S. L. R. 696; P. L. M. 1882, 412).

The parents of a pauper are liable only if there are no children or grandchildren, or if the children or grand-

children are too poor to assist. If the father be dead or unable to assist, the duty will devolve on the mother. Failing the father and mother, the claim lies against the grandfather and grandmother (Tait *v.* White, 1802, Mor. App. *v.* Aliment, 3). The estate of a deceased grandfather is liable for the maintenance of indigent pupil grandchildren (A. *v.* B., P. L. M. 1893, 239).

There is no right of recourse against brothers and sisters.

A father is not bound to aliment the widow of his deceased son (Hoseason *v.* Hoseason, 1870, 9 M. 37; P. L. M. 1870–1, 168); but he is bound to maintain his son's children (Beattie or Pagan *v.* Pagan, 1838, 16 Sh. 399).

The parents of an illegitimate child are liable for its maintenance: first, the father; and, failing him, the mother. The liability to maintain extends during the whole lifetime of the child, if the child be unable to maintain himself (Anderson *v.* Lauder Heritors and Kirk-Session, 1848, 10 D. 960; and Corrie *v.* Adair, 1860, 22 D. 897).

The estate of a deceased father is liable for the maintenance of an illegitimate child unable to maintain himself (Valentine *v.* Macdougall, 1892, 19 R. 519; P. L. M. 1892, 253). An illegitimate child, on the other hand, has no duty to aliment either his father or his mother (Clarke *v.* Carfin Coal Co., 1891, 18 R. (H. L. 63); P. L. M. 1891, 590). The maternal grandparent of an illegitimate child is not liable for his support.

A husband is liable for the support of his wife; but a wife is not liable for the support of her husband (Fingzies *v.* Fingzies, 1890, P. L. M. 1891, 14). The estate of a deceased husband is liable for the support of his widow.

A husband is not liable to aliment his wife's mother unless he is *lucratus* by his marriage (Macallan *v.* Alexander, 1888, 15 R. 863; P. L. M. 1888, 540).

Recourse against a Pauper who inherits Estate

If a person in receipt of relief is left money, the Parish Council have no claim for repayment of past aliment. The relation of debtor and creditor never subsists between a pauper and the Parish Council. But when the pauper becomes vested in the money he ceases to be a pauper (Kilmartin *v.* Macfarlane, 1885, 12 R. 713; P. L. M. 1885, 244). This applies also to pauper lunatics.

If a person were given relief while fraudulently concealing the fact that he had means, the Parish Council would have a good claim to be reimbursed. A person holding the reversion of an estate is not entitled to relief unless such estate has no present value capable of being realised.

Aliment from Friendly and Benefit Societies

In terms of section 4 of the Poor Law Loans and Relief (Scotland) Act, 1886, a Parish Council are not entitled to be reimbursed for aliment given to a pauper or pauper lunatic with dependants, out of money that he may be entitled to receive from a Friendly or Benefit Society; such money is to be applied to the support of the dependants of the pauper or pauper lunatic. The effect of this provision is that, no matter how large the sum payable by a Friendly or Benefit Society in respect of a pauper or pauper lunatic maintained by the Parish Council in a poorhouse, in a lunatic asylum, or in a hospital, the Parish Council can claim no part of that sum. If there are dependants, the allowance from the Society will be applied to their support; if there are no dependants, the Society may retain the sum. If, however, the pauper resides with his family, it is obvious that the Parish Council, in fixing the aliment, will take account

of the income of the family from whatever source derived, including an allowance from a Friendly or Benefit Society.

Army and Navy Pensioners

In the case of Army and Navy pensioners in receipt of relief for themselves or their families, provision is made under the Army Pay Warrant, 1900 (Art. 1215), and by an Order in Council dated 15th March 1893, for repayment by the War Office and Admiralty of the amount of relief given. Intimation of relief having been granted should be sent by the Inspector of Poor to these Departments. When the relief has been given to the wife or child of the pensioner, the amount deducted from the pension towards repayment of the relief will not exceed one-half or two-thirds, according to the number of dependants relieved.

Recourse against Pay of Seamen

In terms of the Merchant Shipping Act, 1894 (secs. 182–5), a Parish Council may be reimbursed for aliment given to the dependants of seamen absent on a voyage out of the wages of the seamen, to the extent of one-half the wages if one dependant is relieved, and two-thirds if two or more dependants are relieved. Notice that relief has been given must be sent to the owner of the ship, stating the amount for which it is intended to make a claim, and requesting the owners to detain such amount for twenty-one days after the seaman's return, and to notify his return to the Parish Council. As soon as he has returned, the Parish Council are required to make an application to a Court of Summary Jurisdiction for an order upon the owners to pay the amount claimed, unless the seaman voluntarily agrees to pay this sum.

Lascars

Section 185 of the same Act provides that, when destitute Lascars have received parochial relief, the Parish Council may be reimbursed for their outlays by the Secretary for State for India.

CHAPTER X

THE LAW OF SETTLEMENT

Legal Basis of Settlement

THE Law of Settlement dates back to the Act of 1535 (c. 22), which ordains "that na beggars be thoiled to beg in ane parochin that ar born in another." The Act of 1579 (c. 74) elaborated this rudimentary provision by directing the magistrates in towns, and the justices in landward parishes, "to take inquisition of all aged, pure, impotent, and decayed persons *borne within that parochin, or quilkes war dwelling, or had their maist common resorte, in the said parochin the last seven yeirs by past*, quilkes of necessitie mon live bee almes," and to provide for the same.

These Statutes instituted settlement by birth and by residence of seven years. The only alteration in the Law of Settlement introduced by the Act of 1845 was to make the qualification for gaining a settlement by residence five years instead of seven, and to provide that a residential settlement should not be retained, unless during any subsequent period of five years at least one year was spent in the parish in which the residential settlement had been acquired. Otherwise, the law remained essentially as it had been interpreted by the Courts prior to 1845.

The Poor Law Act of 1898 substituted three years

for five years as the period necessary to gain a settlement by residence, and provided that no person should retain a residential settlement if during any subsequent period of four years he did not reside for at least one year and a day in the parish in which he had acquired a residential settlement.

A proviso was attached to the first section of the Act of 1898, which for some years gave a certain amount of trouble by reason of its obscurity; but now, from lapse of time, it has no practical bearing on the law.

Status of Irremovability

The Act of 1898 for the first time conferred a *status* of irremovability from Scotland upon English and upon Irish paupers who had not acquired a settlement by residence.

This *status* is of two kinds:

(*a*) If an English-born or an Irish-born poor person has resided continuously in Scotland for not less than five years (of which not less than one year shall have been continuously in the parish in which he applies for parochial relief), and has maintained himself without having had recourse to common begging either by himself or by his family, and without having received parochial relief, he is, on becoming chargeable, irremovable from Scotland, and must be maintained by the parish in which he has become chargeable.

(*b*) The other virtual *status* of irremovability is where an English-born or an Irish-born pauper who has not acquired a settlement by residence nor the legal *status* of irremovability just described, has yet lived continuously for a year in the parish in which he has become chargeable. He is then qualified to appeal to the Local Government Board against removal, and the Board may decide that he is not removable from Scotland, and what parish or

parishes are liable for his support. The Board of Guardians of the parish or union to which it is proposed to remove him are also entitled to appeal against the removal.

Evolution of Present Law of Settlement

Prior to 1845 the Court of Session had evolved a highly-complex Law of Settlement, having added settlement by derivation to settlement by birth and residence as prescribed by the Statutes. The Court has continued to build on this foundation, with the result that the present Law of Settlement has become so extremely complicated that, in many cases, the settlement of a pauper cannot be determined without reference to a legal tribunal.

Determination of Settlement

Cases of disputed settlement are commonly determined in one or other of the following ways:

(*a*) By an action in the Sheriff Court raised at the instance of the relieving parish against the parish or parishes of alleged settlement.

(*b*) By a similar action in the Court of Session, which may be appealed to the House of Lords.

(*c*) By reference to an arbiter mutually agreed upon by the parties.

(*d*) By reference to the Local Government Board.

Arbitration by Local Government Board

The Local Government Board, in dealing with these cases, acts as a quasi-legal tribunal. Its position is thus set forth by section 2 of the Poor Law Act of 1898: "In any case where the Parish Councils of two or more parishes in Scotland have differed as to the settlement of a poor person, but are agreed as to the facts on which such settlement depends, it shall be lawful for such Parish

Councils to refer the case for determination by the Local Government Board, whose determination shall be final."

In practice, at least three-fourths of the disputes arising out of the Law of Settlement are now decided by the Board. This course is to be commended, as a reference to the Board costs the parishes absolutely nothing, and as the Board, after a daily experience of nearly nine years, are probably more familiar than any other authority with the Law of Settlement. Although the Act specially indicates that the cases to be submitted to the Board are those in which the parties are agreed as to the facts, the Board now act as arbiters in all kinds of disputes arising under the Poor Law, on condition that the parties agree to accept their award as final. The Board do not award expenses to either party in cases referred to them for arbitration.

The Board have expressed the opinion that the work of preparing a case for submission to them should be undertaken by the officials of the Parish Council as part of their ordinary duty, and that, as a rule, legal assistance, on account of its cost, should not be invoked. The work of preparing one of these cases is so slight that any Inspector of Poor is capable of doing it; all that is necessary is a short and clear narrative or statement of the essential facts. This statement must be accepted and signed by representatives of the parties to the arbitration,—usually by the Chairman and the Inspector of each parish. In addition, each party should state separately and briefly the reasons on which its view of the law is based. If it should appear to the Board, after perusal of the statements, that further information is necessary, they will communicate with the parties. The procedure is thus of the simplest and least formal kind.

It should be stated that, in certain cases, the Board have taken oral evidence, with the consent of the parties

to the arbitration. They have also on several occasions obtained the expert advice of a Commissioner-in-Lunacy as to the precise degree of mental incapacity of a pauper alleged to be insane.

Effect on Settlement of an Alteration in the Area of a Parish

When a parish has ceased to exist by reason of its area having been apportioned among other parishes, the settlement (whether by birth or by residence) of a pauper in any one of the apportioned parts will be held to be equivalent to settlement in the parish to which that part has been transferred.

Residence in the portion transferred may be added to residence in the new parish for the acquisition of a residential settlement in the new parish (Edinburgh *v.* Gladsmuir, 1901, 3 F. 753; P. L. M. 1901, 303. Edinburgh City *v.* Glasgow City, 1898, 25 R. 385; P. L. M. 1898, 92).

Where, although a parish has not ceased to exist, a part of it has been transferred to another parish, residence for the requisite period in the transferred area will entail the loss of a residential settlement acquired in the parish from which the part in question had been taken (Dunblane and Lecroft *v.* Logie, 1901, 3 F. 764; P. L. M. 1901, 297).

Where a man resided in a parish for two years, and afterwards went to live in a part of another parish that was subsequently transferred to the first parish, it was held that the two residences could not be added together so as to give a settlement in the new parish (Edinburgh *v.* Lauder, 1901, 38 S. L. R. 509; P. L. M. 1901, 309).

CHAPTER XI

SETTLEMENT BY BIRTH

If a person has not acquired a settlement by residence, or derived a settlement from a parent or through marriage, his or her settlement is in the parish of birth.

Even though the mother's presence in a parish at the time of the pauper's birth was but temporary or accidental, the mere fact of birth within the parish makes that parish the birth settlement (M'Donald *v.* Taylor and Craig, 1863, P. L. M. 1866–7, 348; Craig *v.* M'Lennan and Ross, 1867, P. L. M. 1867–8, 161). The same rule applies where a woman has left her own parish and gone secretly to another parish in order to conceal the birth from her friends.

Birth in a Poorhouse

Where a child has been born in a poorhouse (not a combination poorhouse), the parish in which the poorhouse is situated is the parish of the child's birth settlement, although the mother may have been sent to the poorhouse by another parish (Russell *v.* Greig and Craig, 1881, 8 R. 440; P. L. M. 1881, 133). But section 5 of the Poor Law Loans and Relief Act, 1886, expressly provides that a child born in a *combination* poorhouse shall, for purposes of settlement, be held to have been born in the parish by which the mother of the child was *sent* to the poorhouse. This applies to a child sent to

the poorhouse, either by a parish that is a member of the combination, or by a parish that has merely boarding rights in the poorhouse. The principle is not affected by the birth having taken place prior to the date of the Act (1886) (Perth *v.* Dull and Logierait, P. L. M. 1901, 440, L. G. B.).

It is unfortunate that this section lays the chargeability on the parish that *sent* the child's mother to the poorhouse, instead of on the parish of the mother's settlement; as frequently the parish *sending* the mother to the poorhouse acts simply as the agent for the parish of settlement. It is also a pity that the section applies only to *combination* poorhouses, as there is no difference in this respect between a combination poorhouse and a poorhouse belonging to one parish.

Proof of Birth Settlement

The *onus* of proving birth in a parish lies upon the relieving parish, and, in the absence of an entry in the Register of Births, no definite rule can be laid down as to the evidence necessary to prove that birth took place in a particular parish. Neither the Court nor the Local Government Board have held that the evidence must be absolutely conclusive. It is usually sufficient if a number of respectable witnesses, who are in a position to know the facts and who have no personal interest to serve in giving their evidence, testify their belief that the birth took place in the parish named. It is important that there should be no evidence pointing to the birth having taken place in another parish. It should also, if possible, be shown why the birth was not registered. Evidence as to the occupation and residence of the parents at or about the alleged time of birth is valuable. But the judgment in each case will depend wholly on the amount and kind of evidence adduced for and against

the probability of birth having taken place in a particular parish.

Pauper not born in United Kingdom[1]

A person not born in the United Kingdom, and not having acquired a settlement in Scotland, falls to be supported by the parish in which he becomes chargeable (Moulin *v.* Glasgow, 1889, 17 R. 272; P. L. M. 1890, 40). By arrangement with the Foreign Office, the repatriation of such persons is frequently secured. This does not, however, apply to lunatics, as there is an international agreement in virtue of which each country maintains poor persons belonging to other countries who become lunatic while residing within its borders. But where the relatives of a lunatic foreigner are known, they can frequently be induced to assume the charge, the Parish Council paying the cost of transport.

Residential Settlement in Parish of Birth

A settlement can be gained by residence in the parish of birth (Duffus *v.* Stonehouse and Bothwell, P. L. M. 1899, 600).

[1] Under the Aliens Act, 1905, a Parish Council may obtain the repatriation of an alien who "has within three months from the time at which proceedings for the certificate [by the Sheriff] are commenced, been in receipt of any such parochial relief as disqualifies a person for the parliamentary franchise, or been found wandering without ostensible means of subsistence, or been living under insanitary conditions due to overcrowding." But see Appendix XI.

CHAPTER XII

SETTLEMENT BY RESIDENCE

SECTION 1 of the Poor Law Act of 1898 provides that a person can gain a settlement in a parish by residing in that parish for three years continuously without meantime having received or applied for parochial relief or having had recourse to common begging either personally or by his family. It also provides that such settlement shall not be retained unless the person who acquired it shall have resided in the parish for at least a year and a day continuously during any subsequent period of four years.

The nature of the residence required to retain a settlement is the same as that required to gain one. If a person absents himself from a parish for three years, he loses a residential settlement; because, having been absent for that period, he could not within four years reside in the parish for the year and a day requisite to retain the settlement. In other words, if a residential settlement be once gained, it endures in absence for 2 years and 364 days; on the 365th day of the third year it is lost. This follows from the principle of the decision in the case of Hay *v.* Morrine and Thomson (1851, 13 D. 628).

The words "continuous residence" must be interpreted with reference to the ordinary conditions of life. It is, of course, at once apparent that a man's absences from a

parish on holiday or on business are necessary incidents of his life in the parish, and should not be regarded as interrupting the continuity of his residence. Other reasons may arise to prevent a man from being present in person in a parish for a very large part of the period necessary to acquire a settlement, and yet his connection with the parish may be sufficiently strong to enable it to be held that his home is in that parish. In this way has been developed the very important doctrine of

Constructive Residence

The law of constructive residence is not in any way suggested by the Statute, but is purely a creation of the Court of Session. It is evident that the words, "shall have resided for three years *continuously* in such parish," are incapable of literal interpretation. A man's business may compel him to go abroad; he may frequently be absent from the parish, or from the country, pursuing his calling. A sailor, for example, during three years, may spend only a very few weeks in the port in which he has established his wife and family, or where he maintains his mother. A commercial traveller usually lives at home for a very small proportion of his time. Also, for various reasons, a man may work in one parish and have his home—to which he may return only at intervals—in another. These cases resolve themselves into a very simple rule: The parish in which a man's home is situated is the parish in which he resides constructively and acquires a settlement. In determining what constitutes a person's home for purposes of settlement, these questions should, in effect, be asked: Does he have a house in the parish, and maintain there his wife and children? Or does he pay for a lodging and keep there his clothing and other personal effects? Is his mother's house in the parish? Does he help to maintain the

house and at intervals live there? Is his absence in other parishes only an accident of his life in the one parish? Or are his absences in the nature of residence elsewhere? If each of these questions but the last can be answered affirmatively, and it negatively, the inference is that, notwithstanding absence, a settlement has been gained. But if a person deliberately leaves a parish and does not intend to return, he breaks his connection with that parish, although he may for a time continue to keep on a house or lodgings in it, and even visit it occasionally.

A domestic servant who lived with her master's family acquired a residential settlement in a parish, notwithstanding that she was absent from the parish for three periods, each of five or six months, in attendance on the family (Welsh *v.* Lowden, 1894, 22 R. 7; P. L. M. 1894, 628). Absence due to imprisonment does not break the continuity of residence so as to prevent the acquisition of a settlement (Roger *v.* Maconochie, 1854, 16 D. 1005). A sailor who established his wife in a parish and resided with her there between the voyages, was held to have gained a settlement in that parish (Wallace *v.* Highet and Beattie, 1881, 8 R. 345; P. L. M. 1881, 96); a soldier who had lived abroad for ten years similarly took a settlement in the parish in which he had placed his wife (Masons *v.* Greig, 1865, 3 M. 707; P. L. M. 1864–5, 382); a mason who worked in one parish, but who maintained his wife and family in another, and visited them at regular intervals, was held to have gained a settlement in the parish in which his wife lived (Beattie *v.* Smith and Paterson, 1876, 4 R. 19; P. L. M. 1876, 642). So also a fisherman absent during the fishing season (Moncrieff *v.* Ross, 1869, 7 M. 331; P. L. M. 1868–9, 343); and a miner working and living for part of the week in one parish and visiting his wife in another parish at week-ends (Kilmarnock *v.* Leith, 1898, 1 F. 103;

P. L. M. 1899, 26). An important item of proof in such cases is where a man leaves his wife and family. If they remain in one parish, and if the husband continues to maintain them and to visit them there, it will require strong proof to show that that parish is not his home, and that he is not constructively residing in it.

The position was thus stated by the Lord President (Robertson) in the above case of Kilmarnock *v.* Leith: "It is a perfectly intelligible thing that a married man resides where he establishes his wife and family, and where he himself lives as much as the ties of work or business allow, although during the working part of the week he sleeps where he finds his work."

Sometimes it happens that, just before a man has completed three years of residence in a parish, he obtains employment in another parish and goes to live there, while his wife and family remain for some months longer in the first parish—sufficiently long to give the husband a residential settlement, if their residence be regarded as equivalent to residence by him. But at the earliest opportunity—usually as soon as a suitable house can be found—the family removes to the new parish. In such circumstances, it has been held that the continuity of residence is broken whenever the husband leaves the first parish, it being evident that his intention then was to establish his home elsewhere (Bothwell *v.* Hamilton and East Kilbride, P. L. M. 1902, 323).

The residence of a soldier in barracks with his wife has been held to confer on him a residential settlement in the parish in which the barracks are situated. Such residence will also cause the loss of a residential settlement in another parish (Inverness *v.* Ardersier and Tain, P. L. M. 1902, 598, L. G. B.).

A widow, whose husband dies while in process of completing a residential settlement in a parish, cannot

add her own subsequent residence in the parish to that of her husband so as to have a residential settlement in the parish (Jackson *v.* Ireland, 1879, 6 R. 105; P. L. M. 1879, 154). Nor can a widow derive from a husband a residential settlement that he himself would have lost by absence if alive, *i.e.* a widow continues the process of losing a residential settlement begun by her husband before his death, instead of beginning to lose it immediately after his death, as if she had just then left the parish of residence (Caldwell *v.* Glass, Anderson, and Dunlop, 1887, 15 R. 166; P. L. M. 1888, 97).

A person may gain a settlement by residence in the parish of his birth (Duffus *v.* Stonehouse and Bothwell, P. L. M. 1899, 600). This is a more important principle than would at first appear. For example, if a man die leaving a widow, the widow takes the settlement possessed by her husband at his death. If that be a birth settlement, she retains it until she acquires another; but if it be a residential settlement, she loses it by absence just as her husband would have done if alive. As it is easier to lose than to acquire a settlement, it will sometimes happen that a parish is the gainer if it can be proved that a husband left his wife a residential settlement (which she has lost) instead of a birth settlement (which continues until another is acquired)—although both birth and residence might be in the same parish.

If a person resides alternately in two parishes, and if his residence in both parishes is of a nature that would, if continuous, gain a settlement in either, the effect of the alternation of residence will be to prevent him from acquiring a settlement in either parish (Arbroath *v.* Benholm, P. L. M. 1902, 486, L. G. B.).

Manner in which a Person maintains himself during the Process of acquiring a Settlement

In order to enable a person to acquire a residential settlement in a parish, it is not essential that he should have maintained himself by his industry. A man disabled by disease, and supported wholly by friends, may gain a settlement by residence. It is sufficient that he "should not have been a burden on the parish, whether he may have been supported by his own funds (now exhausted), or assistance from friends, or other means" (Thomson *v.* Gibson and Borthwick, 1851, 13 D. 683). A person living on the charity of individuals and of charitable societies is not thereby disqualified from gaining a settlement by residence (Hay *v.* Cumming, 1851, 13 D. 1057). It has been held that a blind woman, subsisting chiefly on charity, but not having had recourse to "common begging," can acquire a settlement by residence (Hay *v.* Ferguson and Lennox, 1852, 14 D. 352). Residence for the statutory period of three years in a charitable institution, such as Quarrier's Homes, has been held to qualify for a residential settlement in the parish in which the institution is situated. This was decided by the Court of Session and House of Lords at the instance of Kilmalcolm Parish Council, who are seriously concerned in the matter, on account of the fact that, owing to Quarrier's Homes being situated in the parish of Kilmalcolm, a very large number of children of the pauper class are always in residence and in process of acquiring a settlement in the parish (Glasgow *v.* Kilmalcolm, 1904, 6 F. 457; P. L. M. 1904, 103; 1 H. of L. 1906, P. L. M. 252).

In advising on this case, Lord Robertson said: "This woman [the pauper] resided three years continuously in the appellant's parish, and during that period had not

recourse to common begging, and did not receive or apply for parochial relief. Her subsistence was derived from the funds of the charitable institution in whose home she resided. . . . The words in the section relied on by the dependants are 'shall have maintained himself,' but the (disappointingly) limited contention is that while a person may be within the section who *de facto* does not (*e.g.* through laziness) maintain himself while able to do so, another person, whose failure to maintain himself is due to mental and bodily weakness, is outside the provision. . . . The construction of the statute, however, which, as a matter of history, was put on this section by the very able judges who developed the law on this subject from 1845 down to 1898, was entirely different. They held that, from the point of view of the Poor Law, all persons fell into two categories, according as they did or did not live off, or try to live off, the public by rates or begging; and that, if people did not live off, or try to live off, the public in those ways, it was immaterial whether they lived on their own resources, or on the resources of their friends, or people who acted as their friends. Accordingly, if a man did not ask parochial relief or beg, it was of no consequence whether he lived on his own means or wages or on other people's; and equally little did it matter whether the charity on which he subsisted was administered to him by individuals or by organisations. Obviously, this is an entirely tenable theory."

The Effect of Relief or Application for Relief on the Acquisition of a Settlement

Application for, and receipt of, parochial relief by a person not legally entitled to relief does not prevent the acquisition of a settlement (Petrie *v.* Meek and Hunter, 1859, 21 D. 614). "If, being entitled to relief, a

person received relief; or, having applied for it, was improperly refused, the receipt of, or application for it, would in such circumstances prevent the acquisition of a settlement" (Jack *v.* Thom, 1860, 23 D. 173). The contention that a parish had improperly refused relief to a person legally entitled to it, cannot relevantly be urged by a relieving parish as a reason why the parish that refused relief should accept liability, as the impropriety of the refusal to grant relief could have been tested only by an appeal to the Sheriff at the time (Williamson *v.* Leslie, 1850, 13 D. 335).

The receipt of relief, whether alimentary or medical, by a person legally entitled to relief, will prevent the acquisition of a settlement. But the fact that a person may have been in a condition entitling him to relief will not prevent the loss or acquisition of a settlement if he was not actually admitted to the roll of poor (Turnbull *v.* Kemp and Russell, 1858, 20 D. 703).

Refusal of an offer of relief in the poorhouse by a person legally entitled to relief prevents the acquisition of a settlement (Arbroath *v.* Scoonie, P. L. M. 1900, 639, L. G. B.).

The fact that a Parish Council contribute to the maintenance of a child in an Industrial School does not affect the settlement of the child's parent, as the payment made by the Parish Council on behalf of the child is not parochial relief (Glasgow *v.* Paisley, P. L. M. 1903, 623).

Relief given by an Inspector of Poor to a person who, although he did not apply for relief, was in such circumstances as justified the inspector in granting it, interrupted the acquisition of a settlement (Simpson *v.* Allan, 1859, 21 D. 1363; P. L. M. 1859–60, 80).

But relief, proved to have been given by an Inspector for the purpose of interrupting the acquisition of a

settlement, will not have the effect intended (Porteous *v.* Blair, 1856, 19 D. 181).

Receipt of medicines to the value of 2s. 6d. prevented the acquisition of a settlement (Wallace *v.* Dempster and Deas, 1880, 8 R. 27; P. L. M. 1880, 593).

It has been held that relief given to an able-bodied man on application was both improperly given and improperly applied for, and did not prevent the acquisition of a settlement (Petrie *v.* Meek and Hunter, 21 D. 614).

Relief given to the child of an able-bodied man not in desertion will not prevent the father from acquiring a settlement (Anderson *v.* Paterson, 1870, 5 R. 904; P. L. M. 1878, 417).

Acquisition of Residential Settlement by a Husband or Parent in Desertion

An able-bodied man in desertion may acquire a settlement by residence in a parish, notwithstanding that meantime relief is being granted to his dependants in another parish; and when the relieving parish discovers the new settlement it may transfer to it the liability for maintaining the dependants (Wallace *v.* Turnbull, 1872, 10 M. 675; P. L. M. 1871–2, 400). But relief given to the dependant of an able-bodied man living with his family will not prevent the loss of a settlement (Milne *v.* Ross, 1883, 11 R. 273; P. L. M. 1884, 126). Presumably also such relief would not prevent the acquisition of a settlement (see Anderson *v.* Paterson, above).

Retention and Loss of Settlement

As stated, the character of the residence required to retain a settlement is precisely the same as that required to gain a settlement. A settlement may be retained as well as acquired by constructive residence.

A person who has been absent from a parish for such length of time as to make it impossible for him to live in the parish for one year and a day within the statutory period of four years after leaving, has lost his settlement in that parish.

A man who visits his wife and family at regular intervals retains his settlement in the parish in which they live (Cruickshank *v.* Greig, 1877, 4 R. 267; P. L. M. 1877, 153).

Whether a soldier living abroad retains a settlement in a parish in this country will depend on the extent of his connection with the parish in question. If he has left a wife and children in the parish, and if he regularly contributes to their support, he will retain his settlement, and may even complete a residential settlement that he had begun by actual residence before leaving the country. But an enforced stoppage of pay for the support of dependants would probably not have the above effect.

As already stated, a widow cannot retain a residential settlement that her husband, if alive, would have lost by absence, *i.e.* a widow continues the process of losing a residential settlement begun by her husband before his death, instead of beginning to lose it immediately after his death, as if she had just then left the parish of settlement (Caldwell *v.* Glass, Anderson, and Dunlop, 1887, 15 R. 166; P. L. M. 1888, 97).

Absence for three years causes the loss of a residential settlement; but if, during that absence, a person becomes chargeable, and if the parish in which he has a settlement admits liability, that combination of circumstances has the effect of renewing the settlement which was in process of being lost. If the person in question ceases to be chargeable, he can be absent from the parish for another three years before the settlement expires, and the

settlement may be renewed an indefinite number of times by recurring chargeabilities and admissions by the parish of settlement (Johnston *v.* Black, 1859, 21 D. 1293; P. L. M. 1858–60, 8). Even although liability be not admitted by the parish of settlement within three years, if the chargeability began within that period, a claim may properly be made against the parish of residence, on the ground that the settlement had been retained by the emergence of pauperism within the three years and by its subsequent continuity. But if the pauperism ends before the expiry of the three years without any claim having been made on the parish of settlement, that parish is entitled to refuse liability (Campbell *v.* Deas, 1893, 21 R. 64; P. L. M. 1894, 11). In such circumstances a parish is entitled to say: "You have been away from us for three years, during which time we heard nothing of you, and when the three years expired you were not a pauper. Therefore you have lost all connection with our parish."

Public begging, though it prevents the acquisition, does not prevent the loss, of a settlement in absence (Scott *v.* Oliver, 1861, P. L. M. 1862–3, 67).

The loss or acquisition of a residential settlement will not be prevented by the following occurrences: (1) relief given to the dependants of an able-bodied man in desertion (Wallace *v.* Turnbull, 1872, 10 M. 675; P. L. M. 1871–2, 400. Fordyce *v.* Bellie, P. L. M. 1904, 46, L. G. B.); (2) relief given to the children of a man in prison; (3) imprisonment (Fetteresso *v.* Dunottar, P. L. M. 1903, 333, L. G. B.); relief given to an imbecile or other dependant of an able-bodied man (Palmer *v.* Russell, 1871, 10 M. 185; P. L. M. 1871–2, 182. Milne *v.* Ross, 1883, 11 R. 273; P. L. M. 1884, 216).

A settlement is not retained in absence, although, during the period of absence, the applicant, who was not

admitted to the roll of poor, may have been in a condition in which he should have received parochial relief (Turnbull *v.* Kemp and Russell, 1858, 20 D. 703). But admission to the roll of poor by the parish of settlement, even though the relief offered was not accepted, prevents the loss, as it will prevent the acquisition, of a residential settlement (Falkirk *v.* Larbert and Clackmannan, P. L. M. 1904, 53, L. G. B.).

Relief given to the dependants of a man in an infectious diseases or other hospital will prevent him from losing or acquiring a settlement, in respect that while relief is given he is not able-bodied (Falkirk *v.* Grangemouth, P. L. M. 1907, L. G. B.).

In computing the period of absence necessary to lose or acquire a settlement, part of a day is reckoned as one day. Thus a person who, on the forenoon of 4th January, received relief which was to continue *for a fortnight*, remained in a condition of chargeability until midnight on the 17th of January. That is to say, the 4th was counted as one complete day, which, added to the thirteen subsequent days, made up the fortnight (Cochrane *v.* Kyd and Gunn, 1871, 9 M. 836; P. L. M. 1870–1, 547).

Similarly, in the case of a person who ceased to receive relief on 13th March 1899, and who again became chargeable on 13th March 1902, it was held that the intervening period was insufficient by one day (*i.e.* was one day less than three years) to cause the loss of a residential settlement. In other words, it was held that the pauper was in receipt of relief during the whole of the 13th March 1899, and during the whole of the 13th March 1902, leaving between these dates only two years and three hundred and sixty-four days free from chargeability (Kilmacolm *v.* Houston, P. L. M. 1903, 507, L. G. B.).

CHAPTER XIII

SETTLEMENT BY DERIVATION

THE law relating to derivative settlement has no foundation in the Statutes, but has been evolved by the Courts, partly to bring the practice under the Poor Law into line with the common law as to the effect of birth and marriage relationships, and partly because of the extreme expediency, in granting relief, of preserving the association and inter-dependence of members of the same family. The system was practically as complete, if not so well articulated, as it is now long before the passing of the Poor Law Act of 1845; and the Court of Session, in dealing with the cases of disputed settlement that arose after 1845, at once gave effect to the law as it existed.

Two kinds of settlement are recognised by the Poor Law Acts, namely, by birth and by residence. The law of derivative settlement amounts simply to this, that widows and dependants do not take the settlement of their own birth or residence, but follow the settlement of a husband, or father, or mother, as the case may be. The application of this principle is, however, as complex as its enunciation is simple, and it is rendered the more difficult by a number of decisions and opinions by the Court and by individual judges that seem to, and in many cases certainly do, conflict with one another. In the following pages an effort is made to follow the

necessary ramifications of the law, and to distinguish general principles.

Settlement derived from Parents

In 1849 the principle of settlement derived from a parent was definitely formulated by Lord Jeffrey, with a felicity of expression rare in cases of settlement: "The branches are held to be where the root is: though they may overhang and drop into other parishes, the true parish is that where the root is" (Hume *v.* Pringle and Halliday, 1849, 12 D. 411). That is to say, when a parent with dependants becomes chargeable, the settlement of the parent is the settlement of the family. No account is taken of the parish of birth or residence of the wife or of the children individually. Being dependants, they take the settlement of the head of the family (the husband and father). Any other course would involve a division of responsibility among different parishes, and perhaps entail the dispersal of the family—a course properly regarded as subversive of good social policy, which calls for preservation of the integrity of the family. This principle was confirmed by the House of Lords in the famous case of Barbour *v.* Adamson (1851, 13 D. 1279; 1853 (H. L.), 1 M. 376). The grounds on which the decision is based were thus stated by the Lord Chancellor: "What, then, is the principle which gives this derivative settlement to the children? There is no enactment on the subject, and it is, I conceive, merely the result of a construction which the Courts have felt warranted in putting on the Statutes relating to the maintainance of the poor, namely, that for all purposes relating to settlement, the father is understood to comprise in himself all his children who are in a state of nonage. . . . Whether the father's settlement has been gained by birth or residence, the moral

necessity of treating the whole family as one and indivisible is the same in both cases. The evil of dispersing the children into different parts of the kingdom, instead of keeping them together, and so giving to family affection its fair chance of operating favourably on the character and contributing to the happiness of its objects, is as great when the parent has not, as when he has, gained a settlement by residence."

This decision by the House of Lords gave a modern basis to the following principles, which are now generally accepted:

1. Pupil children;
2. Unforisfamiliated minors;
3. Congenital imbeciles and congenital lunatics;
4. Persons who, though past the age of pupilarity, became lunatic or imbecile while pupils;

Take the settlement of their parent.

5. Wives take the settlement of their husbands.
6. Widows take the settlement of their deceased husbands.

But each of these principles, when applied to particular cases, expands into a number of minor principles.

To appreciate properly the law of derivative settlement, the following definitions must be kept constantly in mind:

(*a*) A **pupil** is a boy under the age of 14 and a girl under the age of 12 years.

(*b*) A **perpetual pupil** is a congenital imbecile or lunatic, or an imbecile or a lunatic who became thus while still a pupil.

(*c*) A **minor pubes** is a boy above the age of 14 but under the age of 21, and a girl above the age of 12 but under the age of 21.

(*d*) A **dependant** is a wife or a child or a person who has not been forisfamiliated (or who is incapable of forisfamiliation); in other words, a dependant is a person whom a parent or a husband is legally obliged to maintain.

(*e*) **Forisfamiliation** is the ceasing to be dependent on a parent for support. A boy may become forisfamiliated on attaining the age of 14 and a girl on attaining the age of 12; but usually they continue to live with, and to be supported by, their parents for some time longer. While in this position they are said to be "unforisfamiliate." The law as to forisfamiliation is simply an extension of the law relating to pupils to persons who, although they have ceased to be pupils legally, are still so practically. But see page 170.

No special difficulty arises in determining the settlement of a dependant during the life of the father or husband. The dependant then simply takes the settlement of the husband or father, whatever that may be.

But should the husband or father be dead, the rules invented by the Court at once come into play.

Settlement by Marriage

When a woman marries, she takes the settlement of her husband. During the lifetime of her husband, even although he be in desertion, she follows his settlement, taking his birth settlement, unless it can be proved that he has acquired a residential settlement elsewhere (Rutherglen *v.* Glasgow (H. L.), 4 F. 19; P. L. M. 1902, 351).

The Settlement of Widows

A widow possesses the settlement that her husband had at the time of his death, whether of birth or of residence (Hay *v.* Thomson and Manson, 1854, 16 D.

994). If a residential settlement, she may either retain or lose it just as he might have retained or lost it. That is to say, if he was in process of losing it, she, after his death, will, if she remains absent from the parish, lose it on the same date as that on which her husband would have lost it. She has then no further connection with her husband's settlement. If she now becomes chargeable, the parish liable will be either the parish of her own birth or a parish in which she may have gained a settlement by residence since her husband's death (Hay *v.* Waite, Carse, and Greig, 1860. 22 D. 872; P. L. M. 1860–1, 458).

In that case, the Lord Justice-Clerk, and Lords Wood, Neaves, and Mackenzie, in a joint opinion, stated: "The pauper, having commenced her life as a widow with a residential settlement, and having voluntarily relinquished it by a change of residence without acquiring a new residential settlement, the question arises what parish is now liable to support her, whether the parish of her husband's birth or the parish of her own birth. . . . The general rule indisputably is, that a party losing a residential settlement falls back on the parish of his own birth; and that rule must receive effect in the present case, unless it is excluded by another clear rule of law of an opposite tendency. We cannot, however, discover that there is any such opposing rule. The law of derivative settlement is founded on the principle that the person who obtains such a settlement is, from coverture or nonage, incapable of acquiring a settlement directly. That person, therefore, of necessity takes the settlement which for the time being belongs to the person on whom he depends. But it seems a clear corollary from the same principle, that no person can, when *sui juris*, obtain or possess a derivative settlement which he did not hold when in a state of

incapacity. This pauper, therefore, could not, in her viduity, acquire or obtain a settlement in the parish of her husband's birth, except either — First, by means of the fiction that her husband is still alive, and has lost the residential settlement of which he died possessed, so as to come upon his own birth settlement, and transmit it to the pauper as his wife; or, second, by holding that the pauper, at her husband's death, derived from him two concurring settlements — the actual settlement which he died possessed of in the parish of his residence, and an eventual settlement in the parish of his birth, which in him was contingent on his happening to lose his residential settlement, but in her is to be contingent upon a similar loss on her part. The fiction referred to is novel and startling, and seems to be inadmissible; while we have already endeavoured to show that no person has at a time two settlements. . . . The wife does not acquire her husband's birthplace. According to a known rule of law, she acquires from time to time, *stante matrimonio*, the actual settlement which he possesses, and, no doubt, if his settlement is in the parish of his birth, the wife's settlement will also be in that parish. But there is no known rule of law to the effect that a man's widow, besides succeeding to his existing settlement by residence, succeeds also either to his birthplace as her birthplace, or to an eventual right to fall back upon his birth settlement."

If her husband died in possession of only a birth settlement, the widow will retain that settlement until she gains another. When she gains another settlement she loses all claim on the parish of her husband's birth. On losing the residental settlement that she has gained, she at once reverts to the parish of her own birth (Hay *v.* Thomson and Manson, supra, 164). In deciding that case

the Lord Justice-Clerk observed: "It is quite true that, after the death of her husband, a woman becomes *sui juris*, and is not incapacitated from marrying again, or from maintaining herself by her own industry; but if she does so maintain herself it would be against every principle of the Poor Law to say that she is not to acquire a residential settlement, but is, if she ceases to be able to do so, to fall back upon the parish of her birth. . . . The old law of Scotland is quite sufficient, and by it the settlement of the husband is the settlement of the wife, and remains so until she acquires a new one."

If she marries again, she takes the settlement of her new husband, and effectually cuts herself off from all connection with the settlement of her deceased husband (Kirkwood *v.* Manson, 1871; 9 M. 693; P. L. M. 1870–71, 314).

Settlement of Widow of a Foreigner

Note.—In cases of settlement, the word "foreigner" applies to every one not born in Scotland.

A foreigner cannot possibly leave his widow a birth settlement. If he leaves her a residential settlement, the position of the widow is precisely the same as in the case just figured: that is, she retains or loses the settlement precisely as her husband would have done, and on losing it reverts to the parish of her birth.

But if the husband does not leave her a residential settlement, and if she becomes chargeable before she has acquired a residential settlement for herself, the position is peculiar. Being Scotch-born, she cannot be removed to her husband's birth parish, which is outside of Scotland; but, following the analogy of the law, she should be chargeable to her husband's settlement (wherever that may be), not having sufficiently broken connection with

that settlement to be able to go to her own birth parish. The natural position, therefore, would seem to be that she remains chargeable to the parish in which pauperism occurs, and retains this simple *status* of irremovability until, by acquiring a settlement for herself, she acquires the *status* that she had before marriage; and, in the event of losing the acquired settlement, falls back on her birth parish. **The Court has decided, however, that she at once goes back to the parish of her birth, or to any residential settlement acquired before marriage, if that settlement has not been lost by absence** (Johnston *v.* Wallace, 1873, 11 M. 699; P. L. M. 1873, 357). But, following the analogy of the decision by the House of Lords in the recent case of Rutherglen *v.* Glasgow (supra, 164), the *deserted* Scotch-born wife of a foreigner would remain chargeable to the parish in which pauperism occurs, instead of taking her maiden settlement.

Effect of Husband's Desertion on Settlement of Wife

Until the decision of the House of Lords in the case of Rutherglen *v.* Glasgow, it was held that, in its effect on settlement, desertion was equivalent to death. The law now is that desertion makes no difference in the settlement of the wife. A deserted wife follows her husband's settlement, or takes his last known settlement in this country, whether of birth or residence. The husband can acquire or lose a settlement notwithstanding that his wife or family are in receipt of relief. The law was thus stated by Lord Robertson in the case referred to: "The wife is a part of the husband's family. The fact of the husband's desertion cannot avail to alter his own parish's liability for wife any more than for children."

Settlement of Pupil Children of Widow living with their Mother

During pupilarity the children of a widow living in family with her follow their mother's settlement,—whether it be derived from her husband, or acquired by her own residence or subsequent marriage (Greig *v.* Adamson and Craig, 1865, 3 M. 575; P. L. M. 1864–65, 431. Kirkwood *v.* Manson, 1871, 9 M. 693; P. L. M. 1870–71, 314).

Settlement of Orphan Pupil Children

Orphan pupil children take the settlement of their deceased father.

The settlement of a deceased father remains in abeyance during the lifetime of the mother, because, for the proper upbringing and mutual sustenance of the family, it is necessary, during the years of nurture, to keep the children with the mother, even although her settlement should have ceased to be that which she derived from her husband. But, after her death, the children at once take their father's settlement.

A pupil cannot lose a residential settlement left by a father (Henry *v.* Mackison and Christie, 1880, 7 R. 458; P. L. M. 1880, 134). Therefore, if the father dies in possession of a residential settlement, that is the settlement of the children while they are pupils. When they cease to be pupils, it is lost by non-residence according to the usual rule.

In accordance with the general rule that liability shall not be transferred during chargeability, a derivative birth settlement would extend beyond pupilarity only if the orphan child were—(1) In receipt of relief, or (2) a congenital imbecile, or (3) imbecile before the expiry of pupilarity. Beyond pupilarity, a break in the

chargeability would transfer the settlement to the parish of the child's own birth.

Settlement of Children who are not Pupils, but who, not being Forisfamiliated, are in the position of Pupils

The doctrine of **forisfamiliation**, like the doctrine of derivative settlement, was introduced at an early period into the law of settlement, for the purpose of keeping together those members of a family whom it was considered undesirable to separate, although, as they had ceased to be pupils, age alone did not constitute a barrier to separation. It is eminently desirable that a child beyond the age of pupilarity, if unable to maintain himself on account of physical or mental weakness, should be kept with his parent.

If living in family, the unforisfamiliated child of an able-bodied parent would not be entitled to relief unless lunatic or imbecile.

In nearly every case there is no practical distinction to be observed in the relations of parents and children for a number of years after the attainment of pupilarity by the children. The child is not, as a rule, qualified to earn his own living or to act for himself until he is 16 or 17 years of age, or even older. So what the law of forisfamiliation really does is to extend the incidence of pupilarity for the indefinite period that a child lives with his parents and is supported by them. Generally speaking, the effect is the same as if pupilarity, instead of ceasing at the age of 12 and 14, were extended to the age of 16 or 17, or later.

Of course, forisfamiliation, being to some extent an indefinite condition, permits a great many exceptions that an extension of the legal age of pupilarity would exclude. The decisions of the Court are so varied and so conflicting,

that it is a little difficult to define what really constitutes forisfamiliation. The doctrine appears to have had its origin in English law, where it is known as "Emanicipation," and is thus stated by Lord Kenyon in the case of Rex *v.* Roach (6 T. R. 427): "The rule to be extracted from the cases is this: if the child be separated from its parents, and, without marrying or obtaining any settlement for himself, return to them during the age of pupilarity, he is to all intents a part of his father's family, and his settlement will vary with that of his father; but if, when the time arrives at which, in estimation of law, the child wants no further protection from the father, the child remove from the father's family, he is not, for the purpose of a derivative settlement, to be deemed part of that family."

Prior to 1845, the law, as then interpreted in Scotland, held a person to be forisfamiliated if he fulfilled the following conditions:

(1) Had married and taken up a separate establishment;

(2) Was living with his father but supporting himself (But a son living with his parents, although supporting himself, did not become forisfamiliated until he—(*a*) attained minority, (*b*) married, (*c*) gained a settlement of his own, (*d*) contracted a relation inconsistent with the idea of his continuing any longer part of his father's family);

(3) Following an occupation that necessitated his living apart from his parents, and enabled him to acquire a settlement in his own right (Cockburnspath, 1819, F. C.).

Children under 14 would not become forisfamiliated by the death or desertion of their parent or by living apart from him. Also, a state of idiocy emerging during pupilarity, prevented forisfamiliation.

These rules are somewhat arbitrary, and the tendency of later decisions has been to give them a more reasonable and useful basis.

In the case of Craig *v.* Greig and Macdonald (1863, 1 M. 1172; P. L. M. 1863–4, 9 and 65), an opinion given by the Lord Justice-Clerk (Inglis) is of great assistance in enabling one to gain an idea of the later interpretation of the law:

"The survivance of the pauper's mother, and the fact that he lived in family with her until he was sixteen years of age, is urged as a reason why he should not depend on the parish of his own birth for a settlement, but should rather be a burden on that parish of settlement which she and he originally derived from her husband and his father. This argument seems to us to be founded on a misconception of the legal relation subsisting between a widowed mother and her children in puberty. The mother never possesses any authority of the same kind with the *patria potestas*. During the years of nurture the non-separation of mother and child is a matter of necessity arising from the plainest dictates of nature. After the years of nurture, the right of the mother to the custody of a child in pupilarity stands on a totally different ground. During the life of the father the child is, by his overruling dominion, kept within the family, and so consigned to the custody of the mother. Even after the father's death, a child above the years of nurture, but in pupilarity, is still the subject of legal custody. But the mother has no title to that legal custody. It belongs to the tutor, whether tutor nominate or tutor of law, to provide for the residence, custody, and education of the child; and he will not for slight reasons be allowed to withdraw the child from the residence of its mother. But all the widowed mother's right to the custody of the child, after the years of nurture, flows

entirely from the tutor. In the lower ranks, among whom children generally have no legal guardians, the mother commonly assumes the custody of such children without any legal title; but this does not interfere with the application of the legal principle.

"When the child attains the age of puberty, all legal authority of the mother over the child is at an end, unless she has been nominated by her husband, or chosen by her child, as one of his curators. Apart from such special and factitious relation of curator and minor, the widowed mother and the child in puberty are persons quite independent of one another. They are no doubt mutually under natural obligations of duty and affection; and so strong are these natural obligations that they are legally compellable to aliment one another in case of destitution. But the child is just as much bound to aliment and support the mother, as the mother to aliment and support the child; and if they live together for the purpose of making their joint earnings go as far as possible in the support of both, this is a voluntary association or partnership for mutual benefit, and has no foundation in a power of control on the one hand and of obedience on the other, or in a relation of any other kind than an arrangement of convenience, dictated, it may be, in whole or in part, by natural affection."

This decision seems to indicate that, when the father is dead, a child necessarily becomes forisfamiliated, being attached to the mother only during the years of nurture. Later decisions, however, tend to associating a child with the mother while they are *necessarily* living together, even though the child has attained puberty.

It is now recognised that a minor, living with his parents but supporting himself, is forisfamiliated. But if the minor, although working, is necessarily supported in part by his parents, he is not forisfamiliated

(Elgin *v.* Kinloss, 1893, 20 R. 763; P. L. M. 1893, 370).

When a minor is living apart from his parents, and is not supported by them, only lunacy occurring before the expiry of pupilarity will prevent forisfamiliation.

When both parents are dead, a child, if not mentally incapacitated, becomes forisfamiliated on the attainment of puberty.

The following conditions have been recognised as constituting a barrier to forisfamiliation on the part of minors:

1. If the minor is living with his father, and is supported in whole or in part by him.

2. If living with his parents, and incapacitated by disease from earning a living.

3. If, although not living with his parents, the minor is a congenital lunatic or imbecile, or if that condition has supervened before the expiry of pupilarity.

4. If the minor, although not living with his parents, is supported by them in an educational institution or in an institution in which treatment is being given for some disease or infirmity.

On the other hand, the following conditions have been recognised as causing any child beyond the age of pupilarity (a *minor pubes*) to be forisfamiliated:

1. If both parents are dead.

2. If the child, although living with a parent, is supporting himself, or if he has for a reasonable period supported himself.

3. If the child is residing apart from its parents, and, not being a lunatic or imbecile, is not supported by them.

Relief given to a minor unforisfamiliate does not pauperise an able-bodied parent (Milne *v.* Henderson and Smith, 1879, 7 R. 317; P. L. M. 1880, 90).

When the father is dead, a minor living in family with the mother follows the mother's settlement only if that settlement is derived from her deceased husband or acquired in her own right. A settlement derived from subsequent remarriage is not available for minor children of the first marriage who may continue to reside with her. These, unless they have retained a residential settlement derived from their father, will take the settlement of their birth (Campbell *v.* Hislop and Alston, 1894, 31 S. L. R. 919; P. L. M. 1894, 416). The mother carries only pupil children living in family with her to the settlement that she derives from remarriage. After the mother's death pupil children of a former marriage take the settlement of their deceased father, or, failing it, the settlement of their own birth (Beattie *v.* Mackenna and Wallace, 1878, 5 R. 737; P. L. M. 1878, 228). The general theory underlying all this is that children are attached to their mother only for the purpose of nurture, and that they are to be placed on an independent basis at the earliest possible moment.

The Settlement of Illegitimate Children

Illegitimate children in pupilarity take the settlement of their mother, however acquired (Hay *v.* Thomson and Others, 1856, 18 D. 510). If the mother should marry, the settlement that she derives from her husband is the settlement of her pupil illegitimate children, even after her death (Primrose *v.* Milne, 1890, 17 R. 512; P. L. M. 1890, 252). In the case of *legitimate* children, liability does not attach to the stepfather's settlement after the mother's death (Beattie *v.* Mackenna and Wallace, supra).

The law of forisfamiliation would not seem to apply at all to illegitimate children. The *patria potestas* does not belong to the mother, and there is no reciprocal

liability of a mother and an illegitimate child to aliment each other. The legal connection between an illegitimate child and its parents does not extend further than the duty of the latter to aliment the child during the years when such aliment is required. Accordingly, during the years of nurture (or pupilarity) an illegitimate child takes its mother's settlement, but on becoming chargeable thereafter, takes the settlement of its birth, unless it can derive a residential settlement from its mother. In the case of Greig *v.* Ross (4 R. 465; P. L. M. 1877, 251), it was held that an illegitimate child, living apart from his mother, and who, by reason of physical infirmity, was unable to support himself, had a settlement in the parish of his birth. This decision was not based on the fact that the child was living apart from his mother, but on the principle laid down in the case of Craig *v.* Greig and Macdonald (1863, 1 M. 1172; P. L. M. 1863–4, 9 and 65), that, failing the father, there could be no question of forisfamiliation. Indeed, the Lord Justice-Clerk observed: "The mere fact of there being no such thing as *patria potestas* in the case of an illegitimate child, brings such a case more clearly under the general rule that, where a child attains the age of 14 and becomes a *minor pubes*, the parish of his birth becomes his settlement, and he loses the derivative settlement which he had during his pupilarity." This principle has not, however, been rigidly adhered to.

A legitimate forisfamiliated minor on becoming chargeable may have one or other of the following settlements:

(1) A settlement derived from his father's residence, and not lost by absence (St. Cuthbert's *v.* Cramond, 1873, 1 R. 174; P. L. M. 1873, 623).

(2) A settlement acquired by his own residence.

(3) The settlement of his birth.

Note.—A forisfamiliated minor cannot derive a birth settlement from his father (Craig *v.* Greig and Macdonald, supra, 176).

When the child in question is illegitimate, it has been held that his position relative to his mother is, as regards settlement, not unlike the position that, if legitimate, he would have occupied relative to his father. That is to say, before he took the settlement of his own birth or residence, he would take a settlement derived from his mother's residence, and not lost by absence (Wallace *v.* Caldwell, 1894, 22 R. 43; P. L. M. 1894, 642).

If, after attaining puberty, an illegitimate child continued to live with his mother in the parish in which she had acquired a settlement, he would, of course, retain that settlement. But the mere fact that he lived with his mother and took her settlement, is not to be understood as meaning that he was not forisfamiliated. The mother could not acquire for her illegitimate son in such circumstances a settlement by her residence *after he had attained puberty.* In short, the case of Wallace *v.* Caldwell should not be read as inferring that the law of forisfamiliation applies to illegitimate children. These simply follow their mother's settlement while in pupilarity. On attaining puberty, they start, either with a settlement derived from their mother's residence, or with the settlement of their own birth.

In view of this, the law would seem to be that the mother of an illegitimate child who marries a person other than the father of her child, gives her husband's settlement to that child only while it is a pupil. On attaining puberty the child would have the settlement of its own birth.

This view is in accordance with the decision of the Court in the case of Govan *v.* Greenock (P. L. M.

for 1905, p. 153), in which it was held that an illegitimate child, attaining puberty after his mother's death, took his own birth settlement in preference to deriving a settlement from his mother. In advising upon this case, the Lord Justice-Clerk said: "The case for Govan is that the rule applied in the case of legitimate children, whereby the settlement of the father rules even after puberty, applies to the children until another settlement is acquired, must, logically, be applied in the case of a bastard having his mother's settlement. I do not think there is any ground for so holding. The rules in regard to such cases are rules of policy, modifying the law of birth settlement."

CHAPTER XIV

THE SETTLEMENT OF LUNATICS

THE settlement of a person who becomes lunatic after attaining minority is governed by the ordinary law of settlement. There are, however, a few necessary variations.

A certified lunatic cannot acquire a settlement by residence (Watt *v.* Hannah, 1857, 20 D. 342).

A lunatic who is not a pauper loses a residential settlement by absence just as if he were a sane person (Crawford and Petrie *v.* Beattie, 1862, 24 D. 357; P. L. M. 1861–2, 312). A lunatic is capable of retaining a settlement by residence in the parish in which the settlement was acquired (Govan *v.* Thurso, P. L. M. 1899, 321, L. G. B.).

In terms of section 75 of the Lunacy Act of 1857, a pauper lunatic sent to an asylum at the instance of the Inspector of Poor retains during his residence in the asylum the settlement that he had when committed to the asylum. The principle of this section has been extended to cover a lunatic boarded out with the sanction of the General Board of Lunacy (Edinburgh *v.* Colinton, 1903, 11 S. L. T. 460; P. L. M. 1904, 3).

No liability attaches to the parish of settlement if the lunatic was not sent to the asylum at the instance of the Inspector of Poor. In such circumstances, residence in the asylum may cause the loss of a residential settle-

ment (Kinnoull *v.* Dunning and Methil, P. L. M. 1902, 45, L. G. B.).

Capacity of Person Mentally Affected to acquire a Residential Settlement

It is held that volition is a necessary element in the acquisition of a residential settlement, and that when a person is in such a condition that he cannot use his will in determining where he shall reside, he cannot acquire a settlement.

Persons who, although of weak mind, are capable of contributing towards their own livelihood, and to some extent of regulating their lives, may acquire or retain a settlement by residence (Scott *v.* Gardner, 1881, P. L. M. 1882, 149; Boyd *v.* Beattie and Dempster, 1882, 9 R. 1091; P. L. M. 1882, 531). It is difficult to lay down a rule capable of general application, and the facts of each case must be separately considered in forming an opinion. It may be broadly stated, however, as a deduction from the case of Edmiston *v.* Miller and Callan (1895, 33 S. L. R. 366; P. L. M. 1896, 75), that no person who is capable of being certified as a lunatic can acquire a settlement by residence, however capable he or she may be of performing work under supervision. It is a well-known fact that many lunatics are capable of doing excellent work, even to the extent of supporting themselves, while in an asylum; but their mental weakness unfits them for managing their lives independent of restraint or supervision. Mere physical disability to earn a living is not to be confused with mental incapacity, and will not prevent the acquisition of a settlement (Watson *v.* Caie and Macdonald, 1878, 6 R. 202; P. L. M. 1879, 148). The Local Government Board, in the case of Govan *v.* Linlithgow (P. L. M. 1900, p. 608), held that "a person incapable not only of engaging in

any industrial occupation, but also of performing simple duties of ordinary household work, and of attending, without the constant care of her mother to her bodily wants," could not acquire a settlement. This states negatively the minimum qualification of a weak-minded person for the acquisition of a residential settlement.

The Settlement of Lunatics who are Minors

The settlement of lunatics who are minors is regulated on the analogy of the law relating to pupils. A person who is a lunatic or imbecile from birth, or in whom this condition has supervened before he emerged from pupilarity, is usually termed a "perpetual pupil." In the case of Lawson *v.* Gunn (1876, 4 R. 151; P. L. M. 1877, 37) the Lord Justice-Clerk said: "It has been conceded that it has been conclusively settled that a pupil follows the settlement of his father, even although the father be dead. It has been held that, while the father is alive, an imbecile child, although past the age of pupilarity, is still to be regarded as a pupil. I think it follows that the same rule is to be applied after the father's death on the same analogy."

In the same case Lord Ormidale said: "As the disabilities of pupilarity endure in the case of the insane beyond the years of pupilarity during the father's life, I see no reason why they should cease on his death." The tendency of the law to extend artificially the *status* of pupilarity is worthy of note. First, a *minor pubes* is made equivalent to a pupil, if unforisfamiliated; second, a person imbecile from birth or before emerging from pupilarity is made a "perpetual pupil."

Relief may be given to a lunatic dependant although the parent is able-bodied. Such relief does not pauperise the parent. Lunacy has been held to be an exceptional disability which the average parent is incapable of

providing for (Palmer *v.* Russell, 1871, 10 M. 185; P. L. M. 1871–2, 182). But the pupil lunatic, if placed in an asylum, or if residence with guardians has been licensed by the General Board of Lunacy, does not follow any changes that may take place in the settlement of the parents, but remains chargeable to the original parish of settlement (Edinburgh *v.* Colinton, 1903, 11 S. L. T. 460; P. L. M. 1904, 3).

If the analogy of pupilarity be followed, a congenital lunatic or a child who became a lunatic while still a pupil, can never acquire or lose a settlement any more than a pupil can. Such a person being perpetually a pupil, it will not matter what his or her age is when chargeability commences,—the question will be, if the mother is dead, what settlement did the father on his death leave to the lunatic? If he left a birth settlement, clearly that will be the settlement of the lunatic. If he left a residential settlement, although it may be thirty years old, and although since then no residence may have taken place in the parish, that settlement will be the settlement of the lunatic, the reason being that a pupil cannot by absence lose a derivative residential settlement (Henry *v.* Mackison and Christie, 1880, 7 R. 458; P. L. M. 1880, 134. Edinburgh *v.* Kirkcaldy, P. L. M. for 1907, L. G. B.). But if the lunacy supervened after the age of pupilarity, the analogy of perpetual pupilarity breaks down, and—the parents being dead—a derived residential settlement is capable of being lost in the ordinary way. When, in such circumstances, a lunatic loses the residential settlement derived from a parent, he takes the settlement of his own birth (Keith *v.* Kirkmichael, 1901, 4 F. 76; P. L. M. 1902, 29).

The parish that grants relief to a lunatic is entitled, by sections 76 and 78 of the Lunacy Act of 1857, to recover from the parish of settlement expenses incurred

during the year preceding the date of the statutory notice of claim. This includes the cost of certification, but not expenses incurred prior to certification. In the case of an ordinary pauper, only expenses incurred after the date of the statutory notice may be recovered from the parish of settlement.

CHAPTER XV

POSSIBLE ADMINISTRATIVE REFORMS

Fitness of Parish Councils to Administer the Poor Law

SOME earnest advocates of Poor Law reform preface their proposals by insisting that relief shall be taken out of the hands of Parish Councils,—the children being given to one authority, the sick to another, the old and infirm to another. On account of supposed inefficiency, Parish Councils are to be stripped of their functions, and new bodies, efficient because untried, are to be created.

So far as Scotland is concerned, this suggestion implies ignorance of the excellent work performed by Parish Councils, whose position may be stated in the words of a leading Inspector of Poor: "The Parochial Boards existed to save the rates; Parish Councils try to relieve the poor." And he added, "that, with suitable legislative direction and ethical and practical stimulus from the Local Government Board, Parish Councils would devote themselves enthusiastically to any work placed upon them."

At the same time, a person acquainted with only the external aspect of the Scottish Poor Law has some justification for thinking that there has been a tendency to administer the law in a niggardly and short-sighted fashion. Parish Councils inherited not only the duties,

but the system and the reputation of their predecessors, the Parochial Boards. These Boards represented the large ratepayers and the owners of property, and their main concern was to keep down expense. The Board of Supervision, reflecting the reaction that had taken place in England, was also largely endowed with this spirit, and for many years its chief work consisted in preaching economy. As this formed practically the sole inspiration of Parochial Boards, it is not surprising that the words "parish" and "parochial" came to be regarded as synonyms for whatever was petty and mean.

In such circumstances, it is gratifying to find that Parish Councils have justified the trust placed by Parliament in democracy, not by at once reversing the policy of their predecessors or by plunging into extravagance, but by quietly and unostentatiously endeavouring to introduce a larger and more humane spirit into the administration of the Poor Law, by setting aside rigid precepts where their application involved injustice or suffering to individuals, and by reforming the institutions for which they are responsible. The poorhouses built by Parish Councils are infinitely better than those erected by Parochial Boards.

Anyone familiar with existing conditions must inevitably acquire the conviction that improvement of the Poor Law should begin, not by restricting but by enlarging the activities of Parish Councils, by increasing their powers of combination for the carrying out of work that is beyond the financial capacity of a single parish, and by associating with them in administrative work a type of advisory and inspecting official familiar with the Poor Law and with the relative social and economic problems.

Suitability of Parish as the Unit for Poor Law Purposes

It would seem to be desirable that comparatively small areas should form the unit for Poor Law work. Pauperism being almost wholly a product of imperfect social conditions, it is well that a district should be made conscious of its defects, even if to effect this the pressure of a high poor rate is necessary. Social and industrial influences tending to reduce pauperism will then be brought into play. But it does not follow that the existing parish is the best possible Poor Law area. It would certainly promote better administration if the parish areas were considered exclusively in the light of their suitability for Poor Law work, and if such combinations or disjunctions were made as the conditions seemed to indicate. In virtue of their present powers, this could easily be effected by the Local Government Board or by the Secretary for Scotland, acting on the advice of an experienced officer deputed to make local inquiry. It may be stated as a fundamental proposition, that the Poor Law unit should in every case be reconsidered, and, if necessary, altered.

Qualification of Inspectors of Poor

At present, parishes combine for the erection of poor-houses, and there is no reason why they should not also combine for other purposes. The necessity for this becomes apparent when it is considered that the success of administration depends on the Parish Council securing the services of a good Inspector of Poor; and that many parishes are unable to pay a salary sufficient for this purpose. Even in the smallest parishes cases arise that call for delicate handling and for a large amount of official knowledge. These qualities cannot be obtained for the

trifling salary frequently offered. Inefficient and unintelligent work not only arouses public resentment, but gives colour to the idea that the Poor Law, rather than its execution, is at fault. It is almost a truism to affirm that the administration of poor relief will not be satisfactory until every Inspector of Poor is qualified for his position by a good general education, by an accurate knowledge of the Poor Law, and by familiarity with the best methods of procedure.

Legislation may be regarded as the raw material out of which skilled artificers create a finished fabric. But in the hands of unskilled artificers good material is wasted.

At present there are some nine hundred Inspectors of Poor in Scotland. When a body of professional men wishes to make itself respected, it endeavours to secure that each of its members shall possess a certain standard of character and education. At present, no test of fitness is exacted from a candidate for the post of Inspector. In the large parishes an effort is usually made to obtain men who, having been trained in an Inspector's office, are familiar with their duties; and in the smaller parishes it sometimes happens that a schoolmaster or a man of good education is selected. The emoluments, as well as the credit, of the calling are lessened by the appointment of unqualified persons; for, in the absence of a professional test, every one deems himself fit to be an Inspector of Poor, and the numerous applications for vacancies induce Parish Councils to think that a competent man may be got at a ridiculously low rate. So long as it is believed that no special qualification is required, so long will Inspectors be treated as an inferior and easily-obtained type of public official. But it would be a simple matter for the General Society of Inspectors to institute an educational and professional test for its

members; and for the Local Government Board, if so authorised, to refuse to permit the appointment of any person not so qualified.

From the magnitude of the interests that an Inspector of Poor has to safeguard, and from the fact that all his official actions have an important bearing on the economic welfare of the community, it is evident that he must be acquainted with social science. He should be conversant with the principles that govern his actions and those of the Parish Council in giving or withholding relief: so that a knowledge of political economy and sociology is essential. That he may follow with ease the arguments of the learned men who have founded these sciences, he must be something of a scholar, and reasonably proficient in English literature, grammar, and composition. A knowledge of British geography is also necessary for his work. To satisfy the requirements of his position in finance and accounting, and the exactions of the Local Government Board in statistics, he should be familiar with all the ordinary processes of arithmetic up to and including square and cube root. Last, but by no means least, he should be acquainted with the ordinary processes of law, and especially with the Poor Law and the Law of Settlement. This is not a very exacting test, but sufficient to insure that an Inspector shall be a person of respectable attainments. To recapitulate, the suggested subjects are:

1. Political Economy and Social Science.
2. English Literature, Grammar, and Composition.
3. Geography of the United Kingdom.
4. Arithmetic up to and including Square and Cube Root.
5. Scots Law, especially the Poor Law and the Law of Settlement.

(Handwriting and Spelling will, of course, be included,

and permitted to earn marks, but need not be separately tested.)

The societies of Law Agents, Chartered Accountants, Sanitary Inspectors, etc., offer examples as to the manner in which examinations might be carried out by the General Society of Inspectors. By means of a small fee from candidates, the examinations could be made self-supporting. Successful candidates would receive the Society's diploma. This simple, but highly necessary, administrative change could be initiated and carried through without recourse to legislation.

Medical Relief in Highland and Insular Parishes

In the rich lowland parishes the system of medical relief is excellent; but in the Highland and Insular parishes, while the paupers are fairly well attended to, it would be an inestimable boon to the community if the Parish Councils were authorised to supply medical attendance and medicines to any sick parishioner, and not exclusively to the registered poor. Such medical assistance should not pauperise the recipient; but the Parish Council might be empowered to recover as much as they thought proper from any person whose circumstances justified them in asking repayment. This would enable the Parish Council to provide medical relief free of charge to the poorer class of ratepayers, who cannot as a rule pay the high fees necessarily asked by medical men in these sparsely-peopled districts, and at the same time it would prevent wealthy parishioners from benefiting unduly at the expense of the rates. Legislative sanction would be desirable, although that might be dispensed with if the Parish Council were to regard themselves as a voluntary committee when dealing with such extra medical relief. In practice, it would probably be found expedient to require each householder to pay annually

a small sum for medical attendance. A very small annual payment per head (probably not more than one shilling), if added to the present official salary, would enable the Parish Council to obtain the services of a really good doctor.

Retention of the Law of Settlement

By many the Law of Settlement is regarded as an obstacle to any good system of relief. Parish Councils and their officials are popularly supposed to devote to the study of its intricacies and eccentricities time and thought that should be employed in dealing with questions of relief. But, in practice, the Law of Settlement does not bulk so largely in parochial work as might be imagined. In only a small proportion of the cases that arise is there difficulty in determining the settlement, and in the large parishes—where such cases occur most frequently—the officials are usually so expert in the law that the elucidation of individual cases causes very little trouble—is, in fact, a pleasant intellectual exercise. Formerly, the cost of litigation was urged as a reason why the Law of Settlement should be abolished. But since the Poor Law Act of 1898 placed on the Local Government Board the duty of acting as arbiter in all disputes that parishes agreed to refer to them, only a small proportion of cases have been taken to the Court of Session. This clearly suggests that it should be made compulsory to refer all cases of disputed settlement to the Local Government Board. Against this it has been urged—(1) that, as the Board would require to establish a new and expensive department for dealing with Settlement, the saving would be more apparent than real; and (2) that the change would mean merely a transference of the burden from local to imperial funds. It is unlikely that this is what would actually happen. As a matter of

fact, compulsory reference of all cases to the Board would tend to diminish rather than to increase their work. At present, as the Board's decisions must in every case conform to the existing Law of Settlement, a large part of their work consists in ascertaining the particular shade of legal opinion favoured by the Courts. But the Law of Settlement being essentially arbitrary in many of its details, there is little to be gained by pursuing subtle distinctions; what is needed really is clearness and definition. In cases in which the scales of justice are almost equally balanced, it does not matter much what decision is given so long as the rule is simple and easily applied. It is probable that, if the Local Government Board were made sole arbiter, they would begin by preparing a simple, yet complete, code of the Law of Settlement, which would not only regulate their own work, but, if placed in the hands of Inspectors of Poor, would enable them to decide any case in a few minutes. If it be granted that a reasonable parish area is the best unit for Poor Law administration,—and it is difficult to imagine a better unit in a small and thinly-peopled country like Scotland,—each parish should certainly be made responsible for those who have a settlement in it. Any other system would result in a present and growing injustice to the urban ratepayers. There would also be a tendency on the part of proprietors of rural parishes to eliminate from the parish all persons likely to become chargeable. This practice is not unknown even now; and as the towns are the only haven of refuge for such ejected persons, the liabilities of urban parishes would be greatly augmented. The Law of Settlement has become an integral and well-understood part of the Scottish system of poor relief, and the only material argument against it is its clumsiness, complexity, and expense. If these faults were removed (which has

been shown to be easily possible), there is no conceivable reason why it should be abandoned. And it must be admitted that underlying the Law of Settlement there is a basis of justice and natural feeling.

The Future of Poorhouses

A much more serious problem is presented by the poorhouses. As indicated, a difficulty arises from the combination of irreconcilable functions in one institution. In many cases the poorhouses have been planted with little regard to the needs of the parishes that they are supposed to serve. As a result, a number of poorhouses, which are maintained at considerable cost, are really unnecessary.

It was not intended that the Scottish poorhouses should be workhouses, but their appropriation for this purpose was a natural reflection of the experience of the English Poor Law administrators, who found that a strict application of the workhouse test at once relieved the rates of a burden caused partly by imposture and laziness and partly by a system that permitted parish relief to be given in aid of wages. No doubt, in the more populous parts of Scotland, the application of the poorhouse test effected a similar good result; the mistake lay in not having different types of poorhouses, as frequently the attempt to reconcile opposite functions has rendered the poorhouse suitable for neither. In rural districts especially, the poorhouse has ceased to be of value. It is rarely used as a test, because there is no need for a test; and yet its reputation is such that the decent poor will not be persuaded to enter it, and Parish Councils cannot compel them to do so. In some cases the poorhouse is inhabited only by a handful of paupers from the immediate vicinity. Other parishes in the

combination pay their share of the cost of upkeep, but use the poorhouse as seldom as possible, preferring to give outdoor relief or to lodge old and infirm paupers in a small almshouse in the parish. In all Scotland north of the Caledonian Canal it is doubtful whether there is a sufficient number of "test" cases to fill one fair-sized poorhouse. This suggests that, as occasion arises, the unused poorhouses should be abandoned or appropriated for other purposes,—one or two being reserved for use as workhouses proper.

For the type of poorhouses prescribed by the Act of 1845, no administrative development is possible. They are simply havens of refuge for the sick, aged, and infirm. The course to be followed with an inmate of one of these poorhouses is plain. If sick, he is, if possible, to be cured, and sent forth once more into the world to earn a living. If suffering from an incurable disease, he is to be relieved, so far as possible, by skilled medical treatment and kept comfortable until the end comes. If old and infirm, he is to receive kindly and sympathetic treatment, and the poorhouse is to be his home for the remainder of his life. For such persons the function and management of the poorhouse is simple and definite; in such an institution as that at Stobhill, in the parish of Glasgow, the ideal is realised, if not exceeded.

But the Poor Law must take account of many persons whose malady is not purely physical. For those men and women who have become derelicts at an age when they should be hale and working, a different sort of treatment is necessary. So far, nothing has been done except to give them very plain fare and disagreeable tasks, with a view to driving them out of the poorhouse. But once out of the poorhouse, they cannot obtain, or have not sufficient moral and physical fibre to retain, employment; and, in consequence, they are obliged to

return to the poorhouse. They become chronic, intermittent inmates,—"ins and outs."

Our industrial system facilitates the manufacture of such derelicts. A man loses employment, and goes on tramp in search of work. He soon discovers that it is better to be a tramp and to subsist on charity and casual relief than to return to the hard, ill-paid labour that was formerly his lot. Having regard to the evil conditions under which so many workers live, the wonder is not that there are so many tramps, but that there are so few. After a man has ceased to work for some time, he becomes incapable of resuming work without a special course of discipline and treatment. *That* the "test" poorhouse should be able to give him,—but not by means of the present system, which consists in setting a man a disagreeable task and, with a threat of punishment in the event of failure, leaving him to pursue it in sullenness of spirit. Such treatment makes a man worse rather than better. The proper "test" poorhouse would be a scientifically-conducted institution for the treatment of all persons whose mental and moral condition unfitted them for industrial employment and civil life. Experience has shown that, by adoption of the proper methods, a cure may be effected in a majority of cases. But one very marked defect of our present system requires to be remedied. It is useless to give a man a course of regenerative treatment and then simply send him out to sink or to swim. Employers of labour look askance at such men; and these, if they can obtain only the lowest and most disagreeable kinds of employment, are almost certain to return to their former habits. "Test" poorhouses would require to be worked in connection with a scheme of outside employment or emigration that would effectually prevent a man, on whose reclamation care and expense had been

lavished, from being necessarily sucked back into the vortex of vagrancy.

It is probable that in future this class of derelicts will be materially reduced. Legislation has already made provision for the unemployed,—a provision likely to be extended and improved. This will eliminate from the ranks of the professional tramp those who originally took to the road because of the failure of their occupation. Under the Workmen's Compensation Act of 1906, certain diseases induced by occupation have been scheduled as involving a right to compensation. This will reduce the number of persons permanently disabled as an effect of their former employment, and forced to earn a living by begging or other like means. It will also tend to the elimination of objectionable features from the manufactures in question, so that there will be fewer persons tempted to leave them in disgust and to trust to chance for a living. But there will remain a large residue of persons capable of industrial occupation who will not, or cannot, work. These should be dealt with by the *Poor Law authorities*, leaving the municipal and county authorities — who frequently have large public works for which labour is required — to deal with the genuine unemployed. Parish Councils should be given power to detain the class of persons referred to, and to combine for the provision of proper institutions for their treatment. If those poorhouses that are at present unnecessary were abandoned, and some of them appropriated and adapted for the new function, there would probably be little or no addition to the public cost.

The Central Authority

In a previous chapter reference is made to the constitution of the Local Government Board. It is

conceivable that the Board might be better adapted to suit the extensive powers that such progressive legislation as that relating to the Unemployed has conferred upon them. The very important Acts administered by them involve questions for the decision of which the most intimate knowledge of political economy and sociology is necessary. It would probably be of material assistance to the Board if a person skilled in the science of economics were associated with them in their work. The scientific imagination is especially necessary in dealing with issues of which the immediate effect is perhaps the least important result. It is frequently only after the lapse of a generation that the true import of a policy or measure is realised.

It would probably also be in the interest of Scottish administration if the President of the Board held no other Cabinet office, the work of the Board being of sufficient importance and magnitude to justify the appropriation of all the time that the President could spare from his parliamentary duties.

Inspecting Staff

It has frequently been stated that the Board's inspecting staff is numerically inadequate for the work that it is called upon to perform. Four officers are supposed, once in each year, to examine and advise upon the administration of the Poor Law in nearly nine hundred parishes, and in seventy poorhouses; and to investigate—(1) Complaints of inadequate relief and appeals against removal; (2) complaints against inspectors; (3) complaints of maladministration by Parish Councils and House Committees. In addition, they are required to undertake a large amount of work under the Public Health Acts. But, in point of fact, the inspecting officers, even with the assistance of the indoor staff, are

unable, for lack of time, to overtake their Poor Law duties. Extra Inspectors are urgently required.[1] Special qualification is necessary for this highly important work. It has been suggested that the post should be filled by

[1] The Inspecting Staff attached to the English and Irish Local Government Boards is as follows :

Local Government Board for England

2 General Inspectors		£1000
12 ,, ,,	£600, after 5 years	900
Senior Medical Inspector for Poor Law Purposes	£500 (after 3 years, £600; after 5 years, £600–700; after 5 years, £700–800; and Senior Insp. after 5 years, £900)	900
1 Medical Inspector for Poor Law Purposes	500, after 5 years	800
1 Inspector of Audits	900, ,, ,,	1000
1 Inspector of Local Loans and Local Acts	600, ,, 20 ,,	800
1 Inspector under Canal Boats Acts, 1884	500, ,, 20 ,,	600
3 Assistant General Inspectors		500
1 ,, ,, ,, (Lady)	300, ,, 10 ,,	400
1 Asst. Inspector (non-professional)	400, ,, 20 ,,	600
1 Senior Inspector of Board (Outdoor)		400
2 Inspectors of Board (Outdoor)	200, ,, 10 ,,	300
27		

Local Government Board for Ireland

9 General Inspectors	£500, after 5 years	700
6 Temporary Inspectors		500
7 Medical Inspectors	500, after 5 years	700
2 Lady Inspectors for Boarded-Out Children (Temporary)		200
Provision for additional Temporary Inspectors		1000
24		

Also Engineering Inspectors.

competition open to Inspectors of Poor and to the Board's staff.[1]

It would seem to be necessary that every person appointed to these posts should be thoroughly acquainted with the following subjects:

(1) Poor Law.

(2) The rules and practice of the Local Government Board.

(3) A general knowledge of the law and practice of Scottish Local Government and Finance.

(4) Accounting.

(5) Political Economy and Sociology.

General

It may with confidence be stated that, while there are numerous details in which the administration of the Poor Law might be improved, there is no apparent need for any revolutionary change of system. Most of the suggestions indicated could be made effective without legislation. The Unemployed Workmen Act of 1905 removes one great difficulty from the path of Poor Law administrators, leaving for them a well-defined class of poor, for whose treatment definite principles can easily be evolved. It is beginning to be recognised that pauperism is really a species of disease that should be fought by every available means. More than any infectious disease, it is a menace to the public welfare.

The administrative machine is wonderfully good; but, until lately, it has not received the treatment that it merits. It was regarded as a kind of treadmill that had to be made to revolve somehow, but the labour was given grudgingly and in anger. Perhaps that is natural. One obtains some sort of visible reward for every other

[1] Appointments to the Board's clerical staff are made by the Civil Service Commissioners as the result of open competition.

kind of work, but under the Poor Law the best work seems to do nothing but prevent things from growing worse. For a long time to come it is doubtful whether anything will be achieved beyond that; but static force, if less obvious, is not less great than active force, and does not the safety of Holland depend on the mute resistance of its sand dykes to the pressure of the sea?

APPENDIX I

Model Dietary for Inmates of Poorhouses

(*Issued by the Local Government Board in* 1898)

1. No article of diet which is not of good quality, and in a wholesome state, shall be issued, prepared for, or given to any inmate.

2. The inmates—not under medical treatment—shall be divided, for the purpose of diet, into eight classes, namely:

Class A. Adults, of either sex, who are not working, and who have not completed, from the date of their last admission, a fortnight's residence in the Poorhouse. (The aged and infirm, and all women advanced in pregnancy, or who are suckling children, are to be exempted from this "entrance" diet.)

Class B. Adults of either sex who are not working, and who are not aged persons, and who have been inmates for fourteen consecutive days.

Class C. Adult persons of either sex who are working.

Class D. Infirm persons of either sex.

Class E. Children, above five, and not above fifteen years of age.

Class F. Children, above two, and not above five years of age.

Class G. Infants, not above two years of age.

Class H. The privileged inmates deemed deserving of a more varied diet.

3. To Classes A, B, C, and D, three meals a day, and for Classes E, F, and H, four meals shall be allowed, which shall consist of—

FOR CLASS A.—(FIRST RATE)

Breakfast . Meal, four ounces; and butter-milk, three-fourths pint imperial.

Dinner . . Bread, eight ounces; and broth, one and a half pints imperial.

Supper . . Meal, four ounces; and butter-milk, three-fourths pint imperial.

FOR CLASS B.—(SECOND RATE)

Breakfast . Meal, four ounces; and skimmed milk, three-fourths pint imperial.

Dinner . . Bread, eight ounces; and broth, one and a half pints imperial; four ounces of suet pudding (sweetened) twice weekly.

Supper . . Meal, four ounces; and skimmed milk, three-fourths pint imperial.

FOR CLASS C.—(THIRD RATE)

Breakfast . Meal, four ounces; and skimmed milk, three-fourths pint imperial.

Dinner . . Bread, eight ounces; broth, one and a half pints imperial; and boiled meat, four ounces; four ounces of suet pudding (unsweetened) twice weekly, with the meat.

Supper . . Meal, four ounces; and skimmed milk, three-fourths pint imperial.

FOR CLASS D.—(FOURTH RATE)

Breakfast . Meal, four ounces; and skimmed milk, three-fourths pint imperial.

Dinner . . Bread, six ounces; rice soup or broth, one and a half pints imperial; and four ounces of beef

may be allowed when a member of Class D is able and willing to work.

Supper . . Bread, six ounces; butter, half an ounce; and tea, half-pint imperial.

FOR CLASS E.—(FIFTH RATE)

Breakfast . Meal, four ounces; and new milk, three-fourths pint imperial.

Lunch . . Beef-tea or new milk, one-quarter pint; and bread, two ounces.

Dinner . . Bread, six ounces; and broth, one pint imperial; two ounces of meat four days in the week, and on the other days suet or other pudding may be substituted.

Supper . . Meal, three ounces; and new milk, half-pint imperial. Bread, four ounces: and new milk, three-fourths pint imperial may be substituted for the porridge and milk.

FOR CLASS F.—(SIXTH RATE)

Breakfast . Meal, three and half ounces; and new milk, half-pint imperial.

Lunch . . Bread, two ounces; and new milk (hot), one-fourth pint imperial.

Dinner . . Bread, five ounces; and broth or other soup, three-fourths pint imperial; one ounce of meat daily.

Supper . . Meal, three ounces; and new milk, half-pint imperial. Bread and new milk may be substituted for the porridge and milk.

FOR CLASS G.—(SEVENTH RATE)

Not less than eight ounces of white leavened bread, or seven ounces of meal, and one pint imperial of new milk, daily; to be prepared in such manner, and given at such times, as the Medical Officer shall recommend.

FOR CLASS H—(EIGHTH RATE)

Breakfast . Meal, three ounces; skimmed milk, three-fourths pint imperial; or tea, half a pint imperial; butter, half an ounce; bread, four ounces. (See NOTE.)

Dinner . . Bread, six ounces daily, along with the following: One day in the week—Rice soup (without the meat with which it is prepared), one and a half pints imperial; suet pudding (sweetened), two ounces. (Occasionally apples may be used in making this pudding.) Two days in week—Broth, one and a half pints imperial. One day in week—Lentil or pea soup, one and a half pints imperial. One day in week—White fish, eight ounces, with plain butter-sauce (one-quarter of an ounce butter to each person). Two days in week—Minced meat, two ounces; with four ounces of potatoes one of the days, and two ounces of suet pudding (unsweetened) the other days.

Tea, at 4 o'clock. Tea, half a pint imperial; bread, three ounces; butter, half an ounce, four days in week; and marmalade (or other preserve), half an ounce, on the remaining three days.

Supper . . Skimmed milk, three-fourths pint imperial; meal, three ounces four days in the week; and bread, four ounces (instead of porridge) the remaining three days.

NOTE.—To the members of Class H who prefer a tea, bread, and butter diet to a porridge and milk one, it is recommended that the tea diet be allowed on the four mornings in which they partake of porridge and milk for supper, *i.e.* three breakfasts and four suppers of porridge and milk in the week, ensuring one such diet daily. It is recommended that Class H be allowed to dine earlier and to sup a little later than the ordinary inmates.

4. The meal may be either oatmeal or Indian meal, or a mixture of these two kinds. It is recommended that Indian meal be dispensed with.

5. The suet pudding shall be made with one ounce of suet to every three ounces of flour. It should be sweetened when eaten as a pudding, and unsweetened when partaken of with the meat.

6. The bread, except for Class G (Seventh Rate), may be of such sort as is generally used by the labouring population in the parish or parishes to which the poorhouse belongs.

7. The broth shall be made with two ounces of meat exclusive of bone, two ounces of barley, half an ounce of peas, one and a half ounces of carrots, turnips, or other vegetables approved by the Medical Officer, and a due quantity of salt for each ration of one and a half pints imperial; and for other quantities in the like proportions.

8. The rice soup for Class D (Fourth Rate) and for Class H (Eighth Rate) shall be so made that for each ration for an infirm inmate there shall be four ounces of meat (which shall be left in the soup or not, as the Medical Officer shall direct in each case); rice, one and a half ounces; vegetables, two ounces; salt and pepper, the due quantity.

9. The tea for Class D (Fourth Rate) and for Class H (Eighth Rate) shall be made with—sugar, half an ounce; new milk, one ounce; and tea, one-eighth of an ounce,—for each half-pint imperial.

10. In the *First*, *Second*, and *Third* Rates, there may be substituted, not more than three times a week, for the broth at dinner, one and a half pints imperial of *pea soup*, made with two ounces of whole or split peas, one and a half ounces of pease-flour, one ounce of vegetables, and a due proportion of salt and pepper.

11. In the *Second*, *Third*, and *Fourth* Rates, there may be substituted, not more than once a week, for the broth at dinner, three ounces of skimmed-milk cheese; and for the broth and meat together, four and a half ounces.

12. In the *Second* and *Fourth* Rates there may be substituted, not more than twice a week, for the broth at dinner, eight

ounces of white fish; and in the *Third* and *Fourth* Rates, twelve ounces of white fish,—for the broth and meat together.

13. In the *First* Rate, there may be substituted, not more that twice a week, for the bread and broth at dinner, one and a half pounds of boiled potatoes, with three-fourths of a pint imperial of butter-milk; in the *Second* and *Fourth* Rates, two pounds of boiled potatoes, with three-fourths of an imperial pint of skimmed milk; and in the *Third* Rate, for the bread, broth, and meat together, three pounds of boiled potatoes, with one imperial pint of skimmed milk; while in the *Fourth* Rate, when a member of Class D is earning beef, he or she may be allowed eight ounces of potatoes as a substitute for the rice soup or broth.

14. The House Committee may, under the written advice of the Medical Officer or Medical Officers, and by an order entered in the Minutes of their Proceedings, direct the use of other articles, in other proportions than the above, whenever the scarcity of any article, the season of the year, or any circumstance affecting the sanitary condition of the inmates, shall be deemed to justify such changes; but in any such change there shall be no diminution of the amount of nutriment, or of the proportion of nitrogenous or azotised nutriment required by these rules, unless with the previous consent of the Local Government Board.

15. The diet for any inmate who is under medical treatment shall be such as the Medical Officer shall prescribe for him, and shall enter in a book, to be kept for that purpose, and to be called "The Medical Officer's Sick-Diet Book," which shall be submitted to the House Committee at every ordinary meeting.

APPENDIX II

Dietary Tables in the District Hospitals of the Parish of Glasgow

No. 1 *DIET*

Early Tea (6.30 a.m.).—Tea, half-pint; bread and butter.

Quantities.—One-eighth ounce tea, half-ounce sugar, three-eighths ounce butter, one-quarter gill milk, bread *ad lib.*

Breakfast (9 a.m.).—Porridge, half-pint; milk, half-pint; tea, half-pint; bread and butter.

Quantities.—One-eighth ounce tea, half-ounce sugar, three-eighth ounce butter, one-quarter gill milk, two ounces oatmeal, bread *ad lib.*

Dinners (1 p.m.).—

Sunday.—Lentil or pea soup, one pint; rice pudding; and bread.

Quantities.—Two and a half ounce split peas or lentils, one ounce vegetables, one ounce bone or half-ounce meat, two ounces rice, one ounce sugar, half-ounce butter, half-pint milk, bread *ad lib.*

Monday.—Broth, one pint; meat, six ounces; potatoes, twelve ounces; bread.

Quantities.—One and a half ounces barley, half-ounce peas, one and a half ounces mixed vegetables, bread *ad lib.*

Tuesday.—Stewed meat, six ounces; vegetables, six ounces; potatoes, twelve ounces; bread; bread pudding.

Quantities.—Half-ounce currants, one ounce sugar, half-pint milk, bread *ad lib.*

Wednesday.—Broth, one pint; meat, six ounces; potatoes, twelve ounces; bread.

Quantities.—One and a half ounces barley, half-ounce peas, one and a half ounces mixed vegetables, bread *ad lib.*

Thursday.—Rice soup, one pint; mutton, six ounces; potatoes, twelve ounces; bread.

Quantities.—One ounce rice, half-ounce vegetables.

Friday.—Fish, twelve ounces; potatoes, twelve ounces; semolina or ground rice pudding; bread.

Quantities.—Half-ounce sauce, half-ounce flour, one ounce butter, three-fifths gill milk, two ounces semolina or ground rice, one ounce sugar, half-pint milk, bread *ad lib.*

Saturday.—Potato soup, one pint; meat, six ounces; potatoes, twelve ounces; bread.

Quantities.—Four ounces potatoes, two ounces vegetables, bread *ad lib.*

TEA (5 p.m.).—Tea, one pint; bread and butter; cheese or jam, one ounce, alternate nights.

Quantities.—One-quarter ounce tea, one ounce sugar, half-gill milk, three-quarter ounce butter, bread *ad lib.*

No. 2 DIET

(This is a low or non-stimulating diet for patients for whom No. 1 Diet is unsuitable.)

BREAKFAST (9 a.m.).—Milk, one and a half pints; sugar, half ounce; bread *ad lib.*

DINNERS (1 p.m.).—Rice, ground rice, semolina, etc., two and a half ounces boiled in one pint of milk; sugar, three-quarters ounce.

Quantities.—One pint milk, bread *ad lib.*

TEA (5 p.m.).—Tea, one pint; bread; jam, one ounce, three days a week.

Quantities.—One-quarter ounce tea, one ounce sugar, one-half gill milk, bread *ad lib.*

NOTE.—In every poorhouse or poorhouse hospital, the diet of the sick is regulated by the Medical Officer.

APPENDIX III

CONDITIONS UNDER WHICH A GOVERNMENT GRANT AMOUNTING TO £115,500, BEING A CONTRIBUTION IN AID OF THE COST OF **PAUPER LUNACY** IN SCOTLAND, IS DISTRIBTUED AMONG THE PARISHES [1]

1. The cost of the maintenance of any pauper lunatic shall be deemed to be the amount which has been actually paid out of the rates for the *maintenance* of such pauper lunatic during the year or portion thereof during which he was chargeable, under deduction of the sums recovered or recoverable from relatives and other sources.

2. Payments for certificates, or for quarterly visits under the Lunacy Acts, or for removals to and from places of detention, are not to be included in the cost of maintenance, and any claim in respect of such payments will be disallowed.

3. If the expenditure on maintenance has been in excess of 8s. per week, no claim will be admitted in respect of the excess, but the expenditure on which the Parish Council will be allowed to claim will be limited to 8s. per week.

4. When the claims have been audited and the total expenditure on which the contribution from the Local Taxation (Scotland) Account is to be distributed has been ascertained, the contribution will be divided among the various Parish Councils who have established their claims at such rate per £

[1] The forms of claim are not printed here. In practice they are forwarded by the Local Government Board to the Inspectors of Poor, etc., soon after the expiry of the financial year in order that a claim may be duly lodged.

as will exhaust, or as nearly as may be exhaust, the whole amount of the contribution.

5. No claim on account of any pauper lunatic will be recognised unless the certificate from the General Board of Lunacy is to the effect that, in their opinion, the lunatic has been necessarily detained and properly cared for in the place in which the said lunatic has been maintained.

6. All claims, without exception, must be made in the subjoined form.

7. The pauper lunatics are to be entered in the subjoined form in the class to which they belong: Class I., those in which the net cost to the Parish Council has been 8s. and upwards per week; and Class II., those in which the net cost has not amounted to 8s. per week. In the case of a lunatic who has been chargeable in both classes, the name will be entered in each class with the same number.

8. The Inspector of the parish in which a pauper lunatic has his admitted settlement at 15th May 1907, will enter the name of the pauper lunatic in the claim. Accounts between parishes as to the cost of maintenance of any pauper lunatic should be finally adjusted and settled before the case is included in the claim. If the settlement of the pauper lunatic has not at the above date been determined, the claim will be made by the Inspector of the relieving parish.

9. When a pauper lunatic has been detained in more than one place during the year, the name of each place in which he has been detained must be stated in a separate line under columns 2 or 9 (as the case may be), and the other columns filled up with reference thereto.

10. The Inspector of Poor will enter in columns 4 or 11 (as the case may be) the number of complete weeks during which the pauper lunatic has been chargeable. Fractional parts of a week will be omitted, and the year will be held to consist of fifty-two weeks.

11. In the case of pauper lunatics residing in private dwellings, receipts from the persons with whom they are boarded for the payments made by the Parish Council on account of the pauper lunatics must be furnished. A statement showing

separately and specifically the amount paid for aliment and for clothing, etc., should be transmitted along with the vouchers. The weekly cost in columns 5 or 12 (as the case may be) will include aliment, clothing, etc.

12. In the case of pauper lunatics in parochial asylums and in the licensed wards of poorhouses belonging to parishes to which the lunatics are chargeable, the weekly cost per head will be determined by the annual return made by the governor or treasurer to the Local Government Board, and the weekly cost per head will be intimated by the governor or treasurer to the Inspector, or Inspectors, of Poor of the parish, or parishes, to which the poorhouse belongs. In the case of parishes *boarding* paupers in these institutions by agreement, the actual rate paid will be entered in the claim.

13. A certificate of rates of maintenance in district asylums, and of rates paid for *boarders* in royal, district, and parochial asylums, and licensed wards of poorhouses, will be furnished by the General Board of Lunacy, and vouchers relating to payments in such cases need not therefore be transmitted, but in the case of paupers in institutions for imbeciles, receipts from the treasurer must be forwarded to the Local Government Board.

APPENDIX IV

CONDITIONS UNDER WHICH A GOVERNMENT GRANT AMOUNTING TO £20,000, BEING A CONTRIBUTION IN AID OF THE COST OF **MEDICAL RELIEF** TO THE POOR IN SCOTLAND, IS DISTRIBUTED AMONG THE PARISHES

1. In order to entitle a parish to receive a contribution, it is necessary that the conditions and the Rules of the Board of Supervision (now the Local Government Board) as to Medical Relief have been complied with; and that the expenditure on Medical Relief afforded to the poor during the year should at least equal the sum which is mentioned in the Board of Supervision's Circular Letter of 6th April 1848, as the minimum expenditure for your parish on Medical Relief.

2. Each item of expenditure should refer exclusively to "Poor Law Medical Relief" afforded during the year ended 15th May 1906, and be supported by a voucher, distinct as to its date, the period to which it refers, and the subject of payment.

3. Every voucher, without exception, for a payment of £2 or upwards requires a receipt stamp.

4. Discharged accounts for medicines and medical appliances, should be forwarded for examination along with this statement.

5. The following payments are inadmissible as Medical Relief charges, namely: payments to lunatic asylums; also payments to Medical Officers for quarterly visits to lunatics in private dwellings, and for medical certificates under the Lunacy Acts and Regulations of the Lunacy Board,—or for medical

certificates required in the ordinary administration of relief,—or for professional services rendered under the provisions of the Vaccination and Public Health Acts,—or for services rendered by midwives in midwifery cases. Payments for nutritious diet, cordials, clothing, lodging, sickbed attendance, are also not admissible as "Medical Relief" expenditure.

6. Payments, or such proportions of payments as properly belong to Medical Relief, on account of pauper patients treated during the year in licensed wards of poorhouses and infirmaries or hospitals, will be admitted as Medical Relief; also annual subscriptions to hospitals for the year ended 15th May 1906. In all such cases a special statement of the circumstances under which the expenditure is made, and of the benefit derived from it by paupers during the year, should be transmitted, as each case is separately considered before it is admitted.

7. Sums which are not actually and ultimately chargeable to the parochial funds of the parish are not to be included in the account of expenditure on Medical Relief.

8. Neither a participating parish nor the Medical Officer of that parish is entitled to recover from another participating parish the cost of medical attendance.

List of Articles of which the Cost is inadmissible as a Charge against the Medical Relief Grant

Nutritious Diet includes—

Bovril, Liebig, Oxo, and other Meat Extracts.
Milk, Arrowroot, Somatose, and kindred preparations.
Wincarnis, Meat and Malt Wine, etc.
Benger's Food, Horlick's Malted Milk, and Malted Foods generally.

Stimulants, such as—

Whisky, Port, Sherry, Brandy, etc.

Aerated Waters, as—

Potash, Soda Waters, etc. (Lime Water, however, is claimable.)

Miscellaneous Articles—

Sponges, Waterproof Sheeting, Carbolic Acid and similar preparations where used for disinfecting purposes.

APPENDIX V

Conditions under which a Government Grant is given in aid of the Cost of Trained Sick Nursing in Poorhouses

1. The amount to be allocated from the Grant will be at the rate of one-half of the actual salary of each trained sick nurse for which satisfactory vouchers are produced, together with an allowance of 3s. per week in respect of the cost of rations, lodging, and uniform.

2. An extract Minute of the House Committee, certified by the Chairman, agreeing to fulfil the conditions, shall be transmitted to the Local Government Board, accompanied by a statement showing—

(*a*) The average daily number of sick persons in the sick wards or hospital of the poorhouse during the last two years.

(*b*) The number of trained sick nurses employed, or proposed to be employed, and the amount of their respective salaries.

(*c*) The number of untrained sick nurses, and the amount of their respective salaries.

(*d*) The number of assistants, other than nurses, employed in menial duties.

3. A trained sick nurse should have been not less than two years in a public hospital, being a training school for nurses, and maintaining a resident physician or house surgeon, and she must not be under twenty-two years of age, nor over forty-five, when first registered.

4. If the arrangements for the nursing of the sick as shown in the above statement, or by special inquiry if necessary, appear to be satisfactory, a schedule, which will then be furnished, shall be filled up by each trained nurse in her own handwriting, and transmitted to the Local Government Board, in order that her name may be entered in the Register of Trained Nurses.

5. No claim to participate in the Grant will be allowed in respect of any trained sick nurse whose name is not entered in such Register.

6. The Governor shall intimate to the Local Government Board the death, resignation, suspension, or dismissal of any trained sick nurse whose name is entered on the Register, and also the appointment of a successor.

7. It shall be in the power of the Local Government Board, if they see fit, to remove the name of any trained sick nurse from the Register, and no claim in respect of such nurse shall be allowed from the date of the removal of her name from the Register.

8. In every poorhouse where the average daily number of sick amounts to twenty, there should be one trained nurse in addition to the matron, and this proportion should be maintained where the number does not exceed sixty.

9. In every poorhouse where the average daily number of sick exceeds sixty, there should be a trained head nurse or lady superintendent, in addition to the number of trained nurses required by Rule 8; but the proportion of trained nurses to the sick above sixty may be as one in thirty.

10. In every poorhouse where a trained head nurse or lady superintendent is employed, the rules set forth in the Board of Supervision circular of 29th April 1880 shall come into operation.

11. All claims to participate in the Medical Grant in respect of the cost of trained sick nursing during the year ended 15th May, shall be made by the Governor of the Poorhouse where the nurse is employed, in the annexed form,[1] and shall, with the necessary vouchers, be transmitted to the Local Government Board as soon as possible.

[1] See footnote on p. 208.

12. The claim will be made for the year ended 15th May, and no claim will be allowed for the cost of trained sick nursing which has not been incurred during the financial year from 16th May to 15th May immediately preceding the date of the claim.

13. It shall be in the power of the Board to allow a smaller proportion of the cost, or to withhold the whole Grant, if the circumstances appear to them to require it.

14. The foregoing Rules and Regulations shall be deemed provisional, and it shall be in the power of the Board to alter and amend them when necessary.

NOTE.—The Grant in aid of Trained Sick Nursing is a subdivision of the Medical Relief Grant.

The conditions of these Grants (Pauper Lunacy, Medical Relief, and Trained Sick Nursing) were unfortunately stereotyped by Section 22, sub-sections 4 and 5, of the Local Government (Scotland) Act of 1889, and cannot now be altered without legislation.

APPENDIX VI

CIRCULAR ISSUED TO PARISH COUNCILS BY LOCAL GOVERNMENT BOARD ON 15TH JUNE 1902, RELATIVE TO THE RELIEF OF WIDOWS WITH YOUNG CHILDREN

SIR,—I am directed by the Board to request the attention of the Parish Council to a class of cases which seems to require very careful administration, namely, that of respectable widows with young children, who, being left destitute, are without relatives able to assist them.

The treatment accorded to such persons is often in strong contrast to that bestowed on orphan children, who, to the credit of Scottish administration of the Poor Law, are almost invariably the objects of a wise liberality. Thus 3s. a week, with clothing, is a very usual aliment awarded to the boarded-out child, and cases are common in which, where special food is deemed expedient, the allowance is considerably greater.

On the other hand, it appears to have escaped the notice of many Parish Councils that the respectable widow with young children has claims not inferior—in some aspects even superior—to those of boarded-out orphans, and, in the opinion of the Board, Parish Councils would be well advised to consider each case of this class most carefully on its merits, with a view to giving such aliment as shall at least approximate to the boarding rate.

Unless such cases are suitably alimented, it seems to the Board that the mother may have to choose between the sacrifice of her children's welfare on the one hand and starvation on the

other. In such circumstances, the mother has probably no alternative but to seek employment away from home—a course which necessitates the children being left, to their great disadvantage, under the chance care of neighbours. This would, however, in many cases be avoided if the rate of aliment enabled the widow to remain at home engaged in such work as could be done there, and the Board cannot but think that the best security which the Parish Council have against the future pauperism of the children, would be an aliment of such an amount as would allow the mother to do her duty by them.

In the consideration of these cases, therefore, the Board would urge upon Parish Councils that they should not allow themselves to be influenced by any mere question of initial expense, but that they should aim at an aliment of such an amount as will enable worthy and diligent mothers so to devote themselves to the care of their families in childhood that the success of the latter may, in after life, so far as is possible, be assured.

I am, etc.,

(Signed) G. FALCONAR STEWART.

The Inspector of Poor.

APPENDIX VII

FORM OF STATUTORY NOTICE

PARISH COUNCIL OF_____

*Date*_____

*Case of*_____

*Residing at*_____

SIR,

In terms of section 71 of the Poor Law Act of 1845, I hereby give notice that the above-named poor person has become chargeable to this Parish Council, and I am instructed to claim relief from your parish, as the parish of settlement.

I shall be glad to receive an early admission of liability, together with instructions as to the manner in which your Parish Council desire this case to be dealt with.

I am,

SIR,

Your obedient Servant,

_____

Inspector.

To the Inspector of Poor
*of the Parish of*_____

STATEMENT OF PARTICULARS

Condition of Pauper _____ *Age* _____

Occupation _____

Disability _____

Parents _____

_____

Family _____

_____

_____

_____

_____

_____

Statement _____

_____

_____

_____

_____

_____

_____

_____

Settlement _____

Relief Allowed _____

APPENDIX VIII

CIRCULAR RELATIVE TO THE GRANTING OF INTERIM RELIEF TO PAUPERS WHO HAVE COMPLAINED TO THE LOCAL GOVERNMENT BOARD ON THE GROUND OF INADEQUATE RELIEF

LOCAL GOVERMENT BOARD,
EDINBURGH, *29th May* 1907.

SIR,—Cases have from time to time been brought to the notice of the Board where, when paupers have complained to the Board on the ground of inadequate relief, the Parish of Settlement has refused to refund the Parish of Residence the amount of relief granted by the latter Parish to the pauper during the time the complaint was under consideration by the Board. As it is most desirable that the practice on this point should be uniform, I am directed to inform you that, in the opinion of the Board, it is the duty of the Parish Council of the Parish of Settlement to refund all outlays for such aliment granted in good faith by the Inspector of Poor of the Parish of Residence, and that this duty is in no way affected by the question as to what the ultimate deliverance by the Board in the case may be.

I am, etc.,

(Signed) G. FALCONAR STEWART.

The Inspector of Poor.

APPENDIX IX

Form of Visiting Book used for Boarded-out Children

(*It is intended that the guardian should keep this book and produce it whenever the children are inspected.*)

Parish Council of _____

VISITING BOOK FOR BOARDED-OUT CHILDREN

Instructions to Guardians

1. *Supply of Clothing—Attention to repairs.*—Children on being boarded out will receive a full supply of clothing, and one suit, with necessary underclothing, etc., annually thereafter. After a child has resided twelve months with its guardian, a sum of £2, 12s. each year may be allowed in lieu of the clothing from the Council. When clothing is supplied by the Council, the guardian will give the Inspector information as to the various articles required, on forms supplied by him. Guardians must be careful to give the exact measurements, so as to ensure well-fitting garments. The repairing of clothing is a duty to be attended to by the guardian, who will save herself much unnecessary trouble by putting in a stitch in time, or a well-fitting patch. The children's boots ought to be repaired before they are too much worn, and the name of a local bootmaker will be supplied for this purpose. Where the clothing is found to be neglected by the guardian, the children will be removed.

2. *Sleeping accommodation.*—The sleeping rooms fixed by the Inspector when children are sent to board shall not be changed, unless with the sanction of the Inspector, and must be clean, tidy, and well ventilated. The bedclothes must be sufficient and kept clean, and in no case must children sleep with aged persons, nor more than two in one bed. Boys and girls over six years of age must not be allowed to occupy the same sleeping room.

3. *Visits or Communications from Relatives, etc., not allowed without Inspector's sanction.*—Guardians are reminded that the object of the Council in boarding out children is to remove the children from all pauperising influences, and children should not be made the medium of communicating with the Parish Council, nor should reference be made to the fact that they are chargeable to the Parish. No communications from, nor visits by, relatives or friends to children should be allowed without the sanction of the Inspector; and if such occur, they should be immediately reported to him.

4. *Children to be treated as members of family, and meals taken along with Guardian.*—A kindly feeling should be cultivated between the guardian and the children, who ought to be treated, as far as possible, as members of the family, and allowed to take their meals along with the guardian.

5. *Care to be exercised in religious and educational training.*—The religious training of the children must be carefully attended to. They should be taken regularly to the Church of the denomination to which they belong, and sent regularly to the Sunday School.

6. *School books and preparation of home lessons—Serious misconduct to be reported to Inspector.*—Every child between the age of five and fourteen, if its health permit, must be sent to the nearest school. Guardians are expected to take an interest in the children's education, and to see that the home lessons are prepared, and that proper care is taken of the school books, which will be paid for by the Council. All misconduct on the part of the children must be checked by the guardian, but the Council will view with displeasure any *indiscriminate* or severe personal chastisement of children.

Serious misconduct on the part of the children should at once be reported to the Inspector.

7. *Habits of thrift and cleanliness to be cultivated.*—The children should be trained in habits of industry. Personal cleanliness must be insisted on at all times. Girls should be taught to sew, knit, darn, and to assist in general house work.

8. *Serious illness—Doctor to be called and Inspector informed.*—In the event of serious illness among the children, the doctor who has charge of the Council's children in the district should be sent for, and intimation made to the Inspector.

9. *Children fit for service—Inspector to be informed.*—When girls and boys are fit to be employed, the Inspector should be informed of the fact, so that good situations may be found for them; in no case is a guardian to send a child to any employment without first obtaining the sanction of the Inspector.

10. *Authorities to deal with cases of neglect, cruelty, or misconduct towards children.*—Cases of neglect, cruelty, or misconduct on the part of the guardians will be followed by the immediate withdrawal of the children, and if, on inquiry, the Council are satisfied that the child has been subjected to cruel, harsh, or improper treatment, the case will be handed over to the police authorities to secure the punishment of the offender.

11. *Inquiry as to children's welfare.*—The homes of the guardians will be visited periodically by the members of the Council, and by the Inspector or his assistant, at such times as may be deemed advisable, for the purpose of making inquiry as to the welfare of the children. On the occasion of these visits the guardian will produce this book for the inspection of the visitor or visitors, who will fill up and sign the same.

PARISH COUNCIL OF_____

VISITING BOOK FOR BOARDED-OUT CHILDREN

Name and occupation of Guardian_____

_____

Address_____

Number of apartments in house_____

Number of inmates in house, excluding boarded children:

Adults_____ Males_____ Females.

Children_____ „ _____ „

Situation and description of room or rooms to be occupied as sleeping accommodation for children_____

_____

Number of beds in each room_____

NAME OF CHILDREN.	DATE OF BIRTH.	RELIGION.	SENT TO BOARD.	CEASED.

REPORT OF VISIT

Condition of Children:

(*a*) Health_____

(*b*) Personal cleanliness_____

(*c*) Clothing_____

Condition of House:

(*a*) General cleanliness_____

(*b*) Sleeping accommodation for children_____

_____

(*c*) State of bed clothing_____

Are children regular in their attendance at School?_____

Do they attend Church and Sunday School regularly?_____

Are the Guardian's duties satisfactorily performed_____

Remarks_____

_____

_____

_____

(Signed) _____

Date _____

NOTE.—The book should contain 24 or 25 of these Forms of Report.

FORM OF APPLICATION BY GUARDIAN FOR NEW CLOTHING TO BOARDED-OUT CHILD

NAME OF BOARDED-OUT CHILD _____

BOOTS _____ Size _____

SLIPPERS _____ " _____

JACKET—Measurement round chest _____ inches.

Do. From neck to foot of jacket at back _____ do.

Do. Length of Sleeve outside _____ do.

Do. do. inside _____ do.

TROUSERS—Measurement round waist _____ do.

Do. Length of leg inside _____ do.

Do. Length from waist to foot _____ do.

SOCKS—How many pairs required? _____

BRACES— Do. _____

DRAWERS— Do. _____

SEMMITS—How many required? _____

SHIRTS— Do. _____

CAPS— Do. Size _____

CRAVATS— Do. _____

LEGGINGS— Do. Size _____

If any other article is required, state so.

(Signed) _____ *Guardian.*

APPENDIX X

Removal of an Alien who has become Chargeable to the Rates

By Section 3 (1) (*b*) of the Aliens Act, 1905, a Parish Council may now obtain repatriation of the following type of alien, for whose maintenance they would formerly have been responsible:—An alien who "has within three months from the time at which proceedings for the certificate [by the Sheriff] are commenced, been in receipt of any such parochial relief as disqualifies a person for the Parliamentary franchise, or been found wandering without ostensible means of subsistence, or been living under insanitary conditions due to overcrowding."

A Parish Council desirous to have such a person repatriated must, within twelve months after the alien has last entered the United Kingdom, institute proceedings in a Court of Summary Jurisdiction (Sheriff Court), with a view to obtaining a certificate that the alien is as described in the preceding paragraph.

On receipt of this certificate, the Secretary of State (Home Secretary) "may, if he thinks fit, make an Order (in this Act referred to as an Expulsion Order) requiring the alien to leave the United Kingdom within a time fixed by the Order, and thereafter to remain out of the United Kingdom."

By Section 4 (1), "where an Expulsion Order is made in the case of any alien, the Secretary of State may, if he thinks fit, pay the whole or any part of the expenses of, or incidental to, the departure from the United Kingdom, and maintenance until departure, of the alien and his dependants (if any)."

Several cases have arisen under this Act. As a rule, the Parish Council, having obtained the necessary certificate from the Sheriff, have communicated with the Local Government *Board,* who have received the Expulsion Order from the Home *Office,* together with an assurance that all the expenses neces-

sarily incurred in effecting the removal will be repaid by that Department. The Parish Council are, however, required to serve the Expulsion Order on the alien and to undertake the actual removal.

Two copies of the Expulsion Order—the original and a duplicate—are issued by the Home Office. The duplicate is given to the alien, and the original, after being docqueted with the date of service and the name of person who served it, is returned to the Secretary of State.

INDEX OF CASES

Parish Council of Renfrew.

GENERAL INDEX

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